United States Court of Appeals for the Second Circuit



APPENDIX

Original UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

76-7628

CARMEN IRIZARRY,

Plaintiff-Respondent,

-against-

IRVING ANKER, individually and as Chancellor of THE BOARD OF EDUCATION, JULIUS R. RUBIN, individually and as Chairman of the BOARD OF EXAMINERS and THE BOARD OF EDUCATION OF THE CITY OF NEW YORK,

Defendants-Appellants.

B 0/5

On Appeal from Judgment of the United States District Court for the Eastern District of New York

APPENDIX

W. BERNARD CHROND
Corporation Counsel,
Attorney for DefendantsAppellants,
Municipal Building,
New York, N.Y. 10007

STATES COURT OF

AR 2 1 1977

(212) 566-4337

JOAN GOLDBERG Attorney for Plaintiff-Respondent 275 Madison Avenue New York, N. Y. 10016 (212) 689-7059 PAGINATION AS IN ORIGINAL COPY

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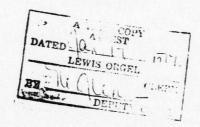
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AGC 1970 IRIZARRY V. ANKER

POATE	PROCEEDINGS	
10-27-76	Complaint filed. Summons issued. (1)	
11-1-76	Summons ret. and filed/ executed.	(2)
11-5-76	By WEINSTEIN, J Order to show cause dtd 10-27-76 vot 11-8-76	
3 3 (6)	before MISHLER, CH. Jfor an order re-issuing ter in license	
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11-5-76	Memorandum of law in support of OSC filed.	(4)
11-8-76	Before MISHLER, J Case called for OSC to re-isste pltff's	
	teashing license. Motion argued and referred to Judge Weinstein	1 101
	1 hearing -	
11-8-76	Before WEINSTEIN, J Case called for trial. Trial ordered and b	egun
X	non diver Defts motion to dismiss Decision reserved. The Court	Truas
E	in favor of the deft - the cause of action based on her to free	o com
\$ 60 L	of speech is dismissed. The court finds in favor of pltff on du process grounds. Findings of fact and conclusion of law read in	to
1 P	record. Pltff tp submit order	
1	By WEINSTEIN, J Judgment dtd. 11-10-76 that lisense in contidio	onal
A11-11-16	reinstated as of 11-8-76 etc., See Order filed.	(5)
14.	NOTICE OF APPEAL FILED. Copy to C of A. (deft)	(6)
12-10-76		
1-3-77	Civil appeal scheduling order filed.	(7)
. 1		



UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK

CARMEN IRIZARRY.

Plaintiff,

-against-

IRVING ANKER, individually and as Chancellor of THE BOARD OF DDUCATION, JULIUS R. RUBIN, individually and as Chairman of THE BOARD OF EXAMINERS and THE BOARD OF EDUCATION OF THE CITY OF NEW YORK,

COMPLAINT

Defendants.

Plaintiff, complaining of the defendants, by her attorney, JOAN GOLDBERG, respectfully alleges as follows:

AS AND FOR A FIRST CAUSE OF ACTION:

- Plaintiff is a citizen of the State of New Jersey, wherein she resides at 233 East Columbia Avenue in the Town of Palisades Park in the County of BERCEN, State of New Jersey.
- 2. The defendants are official bodies of a political subdivision of the State of New York.
- 3. This court has jurisdiction pursuant to 28 U.S.C. Sections 1331, 1343; 42 U.S.C. 1981, 1983, 1985, 1986 and the First. Fifth and Fourteenth Amendments to the United States Constitution.
- 4. Plaintiff was employed by the Board of Education in September of 1973 as a Bi-lingual teacher of Ethnic Studies-Hispanic Culture at P.S. 166.

4a COMPLAINT

- 5. Plaintiff was assign and as a temporary employee under a certificate of competence.
- 6. This employment was continued until June 1976 on a year-to-year appointment basis.
- 7. In February of 1974 the plaintiff passed the Board of Education Licensing Examination for Bi-lingual Teachers.
- 8. In April 1974 the princ al of T.S. 166M requested that plaintiff be permanently employed by the Board of Education in her capacity as a Bi-lingual teacher at P.S. 166 as she was now licensed.
- 9. The Board of Education did not respond in any way to the principal's request for plaintiff's permanent appointment under her license.
- 10. Each year from: 1973-76 the plaintiff received a satisfactory rating as a teacher.
- 11. In November 1975 the plaintiff was informed that her license was to be terminated in June of 1976 as she lacked 2 credits of Methods courses required for licensing as of September 1974.
- 12. At no time prior to November 1975 was plaintiff informed that she lacked any requirements for licensing.
- 13. Plaintiff appealed this decision of the Board of Examiners contending that she possessed the necessary 2

credits in Methods as she had taken a 2 credit course in September 1972 containing substantially the same material as requested.

- 14. A professor of the plaintiff's wrote a letter to that effect to the Board of Examiners saying that the necessary course materials were included in the course taken by the plaintiff at Lehmann College in 1972.
- 15. The appeal of the plaintiff was denied without a hearing or actual investigation into plaintiff's allegations that she did, in fact, possess the necessary credits.
 - 16. Plaintiff's employment was terminated June 1976.
- 17. The defendants have v'-lated the due process rights of the plaintiff in taking the following action:
- (a) terminating plaintiff's license without proper notice thus depriving her of any opportunity to correct any alleged deficiencies;
- (b) terminating plaintiff's license without a hearing;
- (c) failing to allow the plaintiff to present evidence to prove her fulfillment of all necessary requirements;
- (d) failing to respond in any way to the principal of P.S. 166 in her request for plaintiff's permanent appointment thus depriving the plaintiff of permanent employment for which she had proved herself qualified;

6a . COMPLAINT

(e) terminating the plaintiff's employment despite three years of satisfactory ratings as a teacher where plaintiff's position remains.

18. As a direct consequence and result of the acts of defendants hereinabove complained of the plaintiff was deprived of liberty and property rights guaranteed by the due process clause of the Fourteenth Amendment.

WHEREFORE, plaintiff demands the following relief:

- l. reinstatement of her license as a Bi-lingual teacher;
- 2. reinstatement to her position as a teacher at P.S. 166;
- entitled had she not been improperly deprived of her license and position, and for such other and further relief as the court may deem just and proper together with costs and disbursements in this action.

AS AND FOR A SECOND CAUSE OF ACTION:

- 19. Plaintiff repeats and realleges each and every allegation set forth in the first cause of action with the same force and effect as if they were repeated herein.
- 20. On many occasions, the plaintiff criticized the policies of the Board of Education concerning the Ei-lingual program in which plaintiff taught.
- 21. As a result of such criticism the Board of Education did not grant the plaintiff permanent appointment when

7a COMPLAINT

it was requested by the principal of P.S. 166.

- 22. As a result of plaintiff's criticism of the programshe was not reassigned to the Bi-lingual program under her certificate of competency.
- 23. Plaintiff was injured by these acts of the Board in that she is thereby unemployed.
- 24. These actions of the Board of Education amount to penalization of the plaintiff because of her exercise of the First Amendment Rights.

WHEREFORE, plaintiff demands the following relief:

- l. reassignment to her position as a Bi-lingual teacher at P.S. 166;
- 2. all back pay to which she would have been entitled was it not for the wrongful acts of the lefendants.

 Dated: New York, New York October 27, 1976

Yours, etc.

JOAN GOLDBERG Attorney for Plaintiff Office & P.O. Aidress 275 Madison Avenue New York, New York 10016 (212) 680-7059

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United States District Court

FOR THE

DASTERN DISTRICT OF NEW YORK

CIVIL ACTION FILE No. 76C1970

CARMEN IRIZARRY.

Plaintiff

SUMMONS

INVING AUXIR, individually and as Chancellor of the Board of Education of the Jity of New York; JUMUS P. NUDIN, individually and as Shairman of the Board of Maniners; and THE BOARD OF RESUMPTION OF THE SITY OF NEW YORK, Defendant

To the above named Defendant :

You are hereby summoned and required to serve upon GOLDERS & COLDER,

plaintiff's attorney , whose address 275 Madison Avenue, New York, N.Y. 10016

an answer to the complaint which is herewith served upon you, within 29 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

> Lewis Orge! Clerk of Court. Manifor 61cm Deputy Clerk.

[Seal of Court]

Date: October 27, 1976.

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NOTE:-This summons is issued pursuant to Rule I of the Federal Rules of Civil Procedure.

RULL BY DY MERKINE OF WRIT

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK

CARMEN IRIZARRY,

Plaintiff.

ORDER TO SHOW CAUSE

and

-against-

TEMPORARY RESTRAINING ORDER

IRVING ANKER, individually and as Chancellor of the Board of Education of the City of New York, JULIUS R. RUBIN, individually and as Chairman of the Board of Examiners, and THE BOARD OF EDUCATION OF THE CITY OF NEW YORK,

Civil Action No. 76 C 1970

Defendants.

Upon the affidavit of the plaintiff, CARMEN IRIZARRY, = sworn to October /5, 1976, a copy of the complaint hereto annexed, and the affidavit of JOAN GOLDBERG, ESQ., sworm to October 26, 1976, attached hereto and made a part hereof, it is

ORDERED, that the defendants show cause before this court, located at the United States Courthouse, Cadman Plaza East, Brooklyn, N.Y. on October , 1976 at 1970 o'clock in the morning, why a preliminary injunction should not issue herein ordering the defendants and their agents, servants and employees to immediately reassign the plaintiff to her teaching position at P.S. 166 Manhattan and to re-issue the teaching license of the plaintiff and to enjoin the defendants from engaging in such acts or omissions as would do harm, intimidate or threaten her or as would interfere with her rights as guaranteed by the Constitution and Laws of the United States and the State of New York, and

IT APPEARING to the court that the defendants have committed the acts hereinafter specified and that they will continue in this course of action unless restrained by order of this court and that immediate and irreparable harm, injury, loss, and damage has resulted to the plaintiff and will continue before notice can be given and the defendants and their attorneys can be heard in opposition to the granting of a preliminary injunction, in that the denial of employment and revocation of plaintiff's license to teach will harm the plaintiff's present and future academic

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ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER

reputation and will damage her career as a teacher and that to allow any of the aforementioned conduct to continue for any amount oftime epnding the notification and opposition of the temporary restraining order would only result in irreparable damage to the plaintiff and it further

post security as the defer to in reassigning the plaintiff to her teaching position and re-issuing her license shall not have suffered any change in circumstance or similar damage should the finding be made of wrongful temporary restraint, it is therefore

ORDERED, that the defendants and their agents, servants and employees are hereby ordered to reassign the plaintiff toher teaching position at P.S. 166 Manhattan and to re-issue plaintiff's license to teach, and are hereby restrained from engaging in such other and further conduct, acts or omissions as would interfere with her rights as guaranteed by the Constitution and Laws of the United States and the State of New York, and it is further

after the day of its granting unless within such time the order is extended for alike period of time or unless the defendants consent that it may be extended for a longer period of time, and it is further

ORDERED, that service of 1 opy of this order to show cause together with a copy of the papers affixed hereto and made a part hereof shall be deemed sufficient if made upon the defendants on or before the /St day of November, 1976 at 5:00 o'clock in the afternoon, and it is further

ORDERED, that in order to avoid delay, any member, associate, or employee of the firm of GOLDBERG & COMER, attorneys for the plaintiff, may make service of the within order to show cause and the supporting papers.

Issued at o'clock on the day of

October 27, 1976.

SI JACK B WST USTERN

11a AFFIDAVIT OF JOAN GOLDBERG

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK

CARMEN IRIZARRY,

AFFIDAVIT IN SUPPORT OF ORDER TO SHOW

Plaintiff,

OF ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER

-against-

Civil Action No.

IRVING ANKER, individually and as : Chancellor of the Board of Education of the City of New York; JULIUS R. RUBIN, : individually and as Chairman of the Board of Examiners, and THE BOARD OF EDUCATION OF THE CITY OF NEW YORK,

Defendants.

STATE OF NEW YORK)
COUNTY OF NEW YORK)

JOAN GOLDBERG, being duly sworn, deposes and says:

- 1. I am a member of the firm of GOLDBERG & COMER, attorneys for the plaintiff herein.
- 2. The plaintiff's complaint is based upon documented proof, or upon the statements of witnesses and participants in the acts therein alleged. Plaintiff, in my judgment and professional experience, has a valid cause of action.
- 5. The course of conduct outlined in the complaint is one in which the defendants have engaged in order to:
- (a) deprive the plaintiff of her means of earning a livelihood;
- (b) deprive the plaintiff of her position as a bi-lingual teacher at P.S. 166 Manhattan which she has performed satisfactorily for three years:
- (c) insure that plaintiff be prevented from being permanently appointed to her position by revoking her license without a hearing and in the process depriving her of her rights to due process.
- 4. The above actions were motivated by plaintiff having spoken out and questioned why, in light of the great public concern with problems of Hispanic pupils, the Board of Education Bi-Lingual Program at P.S. 166 is not performing its

AFFIDAVIT OF JOAN GOLDBERG

proper function by failing to teach and promote the use of the English language. This question and statements in regard to it made by the plaintiff were made in her capacity as teacher, citizen, and taxpayer and are within the guarantees of her constitutional and lawful rights.

- 5. If the defendants are permitted to continue in this course of action for even one more day, the defendants will have effectively destroyed plaintiff's career as a teacher by rendering future employment in her chosen profession an impossibility, will have deprived the plaintiff of her means to earn her livelihood, and will have rendered the plaintiff's rights to free speech and due process meaningless.
- 6. Notice of this application was given to the Corporation Counsel of the City of New York by calling the Co.poration Counsel at twelve stellack on October 23, 1976 and advising that this order to show cause would be presented for signature at on October

, 1976.

Joan Goldberg

Sworm to before me this 26th day of Clober, 1976.

OF ORDER TO SHOW DAUSE

THIELD STATES DISTRICT COURT STELL DISTRICT OF NEW YORK

CARMEN IRIZARRY,

Plaintiff,

-against-

IRVING ANTER, individually and as Chancellor of THE BOARD OF EDUCATION, JULIUS R. RUBIN, individually and as Chairman of THE BOARD OF EXAMINERS and THE BOARD OF EDUCATION OF THE CITY OF THE YORK,

Defendants.

STATE OF MEN YORK)

SARMEN IRIEARRY, being duly sworn, deposes and says:

- 1. In September 1973 I was assigned to teach Ethnic Studies (Hispanic Culture) at P.S. 166 as a Bi-lingual teacher under a certificate of competency.
- 2. For each of the following three years I was reassigned to the same position as each year I received a satisfactory rating as a teacher.
- 3. In Fobruary 1974 I passed the licensing examination for Bi-lingual teachers.

14a AFFIDAVIT OF CARMEN IRIZARRY

- 4. In April of 1974 the principal of P.S. 166 requested that I be permanently appointed as a teacher in that school, as I was at that time a licensed teacher.
- 5. The Board of Education did not respond to the principal's request in any manner and as a result I did not receive permanent employment.
- 6. In November of 1975 I was informed that my license would be terminated in June of 1976 as I was allegedly missing a necessary qualification for licensing; namely a three credit course in teaching methods required to have been taken prior to September 1974.
- 7. Prior to this notice of termination in November 1975 I was never informed of any deficiency in my qualifications.
- 8. I appealed to the Board of Examiners in May 1976 contending that I had in fact fulfilled this course requirement and submitted a letter written by one of my professors to this effect. The professor in his letter stated that although the title of the course I took was not "methods", the course itself included substantially the same material.
 - 9. My appeal was denie June 23, 1976 and my license was revoked as of June 1976.

15a AFFIDAVIT OF CARMEN IRIZARRY

10. I was not given any hearing on the issue of whether or not I had in fact complete the requirement as I believe I have nor was I given any opportunity to present evidence to support my claim nor in any way was I permitted to protect my interests as a teacher or employee.

11. I believe that this arbitrary action was taken by the Board as a direct result of my outspoken criticism of the policies of the Bi-lingual program.

12. Since June 1976 I have been unemployed and can no longer obtain employment in my chosen profession as my license has been revoked.

WHEREFORE, I respectfully request that the Court immediately order me reinstated to my position.

ARMEN IRMARRY

Sworn to before me this

STEVEN A. PEIN
Notary Public, State of New York
No. 30-452552
Qualified in Nessau County
Torm Expires March 20, 197.2

16a COMPLAINT

Previously printed herein at page 3a.

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK

CARMEN IRIZARRY

M. BILDED

Plaintiff,

-against-

JUDGMENT

: Civil Action No. IRVING ANKER, individually and as Civil Act.
Chancellor of the Board of Education 76 d 19
of the City of New York, JULIUS R. RUBIN:
individually and as Chairman of the
Board of Examiners, and THE BOARD OF THE CITY OF NEW YORK, 76 0 1970 (JBW)

Defendants.

The issues in the above entitled action having come on for trial before Hon. Jack B. Weinstein on the 8th day of November, 1976, and plaintiff having appeared by JOAN GOLDBERG, ESQ., her attorney, and defendant having appeared by BERNARD RICHLAND, ESQ., Corporation Counsel, Howard Katz, of Counsel, and the court having filed its decision setting forth its findings of fact and directing judgment as set forth below, it is

ORDERED, ADJUDGED AND DECREED THAT:

iftrate, dated January 22, 1975, File No.

469113, is hereby rejustated as of mis

November 1,1916 a duly certified bilingual teacher of early childhood education (Scanian);

3. Said license is to remain in conditional form until July 31, 1977. By said date plaintiff shall have completed at least two (2) credits in instruction of methods and materials on a pre-kindergarten level in any institution of higher learning approved by the Board of Examiners, Prior to registration plaintiff may apply to the Board of examiners for advice course meets such requirements;

4. If plaintiff fails to complete satisfactorily such requirement, her license will be cancelled as of August 1, 1977. the constitutes a price order and progress.

SO ORDERED.

United States District Judge

Wrender 10, 1976

18a NOTICE OF APPEAL

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK

CARMEN IRIZARY,

Plaintiff,

-against-

IRVING ANKER, individually and as Chancellor of the Board of Education of the City of New York, JULIUS R. RUBIN, individually and as Chairman of the Board of Examiners, and THE BOARD OF EDUCATION OF THE CITY OF NEW YORK,

NOTICE OF APPEAL

76 C 1970 (JBW)

Defendants.

SIRS:

NOTICE is hereby given that the defendants hereby appeal to the United States Court of Appeals for the Second Circuit from the final order and judgment entered herein on November 11, 1976 which ordered and adjudged that plaintiff's license be conditionally reinstated and this appeal is taken from each and every part of said order and judgment as well as from the whole thereof.

DEC 10 1976

Yours, etc.

W. BERNARD RICHLAND Corporation Counsel Attorney for Defendants Office & P.O. Address: Municipal Building New York, N.Y. 10007

To:

JOAN GOLDBERG Attorney for Plaintiff 275 Madison Avenue New York, N.Y. 10016 By

ARL SANDERS

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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

IRIZARRY,

Plaintiff, :

: 76C-1970 -against-

ANKER,

Defendant.

UNITED STATES COURTHOUSE BROOKLYN, NEW YORK

November 8, 1976 10:00 o'clock A.M.

BEFOR E:

HONORABLE JACK B. WEINSTEIN, U.S.D.J.

HENRI LE GENDRE ACTING OFFICIAL COURT REPORTER

APPEARANCES:

-11

JOAN GOLDBERT, ESQ.,

Attorney for Plaintiff

HOWARD KATZ, ESQ.,

Attorney for Defendant

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THE COURT: Because I had a break in my calendar this morning as a result of the settlement of a case, I am in a position to try the case this morning. Do you want a jury?

MS. GOLDBERG: No.

THE COURT: Does the defendant wish a jury?

MR. KATZ: No.

THE COURT: Jury has been waived and we'll try the case today completely. I don't see any

point in a preliminary hearing.

MS. GOLDBERG: I have not obtained one bit of documentary evidence; it describes the regulation.

I just discovered it existed so I could walk over to the Board of Education and do that.

THE COURT: Counsel for the plaintiff?

MS. GOLDBERG: Joan Goldberg.

THE COURT: And for the defendant?

MR. KATZ: Howard Katz for J. Bernard Richman.

THE COURT: Swear your first witness.

CARMEN IRIZARRY, having been first duly sworn by a Notary Public of the State of New York, testified as follows:

THE COURT: Do you understand that this is a trial on the merits, final trial on the case.

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DIRECT EXAMINATION

BY MS. GOLDBERG:

- Q What is your full name?
- A Carmen J. Irizarry.
- Q And what is your educational background?
- A B.A. in Child Psychology.
- Q When did you get your degree?
- A June 1973, Lehman College.
- Q And when did you begin teaching?
- A September of 1973.
- Q Where was that?
- A Public School 166 in Manhattan.
- Q And what did you teach?
- A Bilingual education, fourth grade.
- Q And did you have a license at that time?
- A No, I didn't.
- Q Were you teaching under any special certificate?
- A Under a certificate of competency.
- Q Could you tell us how you get a certificate of competency?
- A I went to the bilingual office, District 3, and the director of the program applied for me.
 - Q Did you take any kind of test?
 - A Yes, I did. I took a test in English and

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and Spanish, written exam.

Q Then what happened?

A Then I was given the certificate of competency, and I started working at Public School 166.

- Q And who is the principal at 166?
- A Gloria Johnson.
- Q Did you take a regular exam?

A I took it in 1974, bilingual and early childhood.

- Q Did you pass those examinations?
- A Yes, I passed both.
- Q Were you appointed under either of these licenses?

A No, I received a license for bilingual education and my principal asked for me but there was no response to that.

- Q What class did you teach at 166?
- A Fourth grade bilingual.
- Q Now, is that a class that would be taught under early childhood license?
 - A Yes, it was.
- Are you familiar with the licensing requirements for your license to be valid?
 - A No, I wasn't.

Q Were you told that there was a requirement with regard to certain courses in order to perfect your license?

Prior to the exam, no. Afterwards, when I received a notice that I had passed and that my license would be forwarded to me, there was a notice attached, so I went back to Lehman College, spoke to a counselor and he said -- looked at everything and a transcript of my courses, and said everything was fine, everything was in order.

Q And you were advised that you had completed all the requirements for your license?

A Yes.

Q Did anything happen while you were teaching under your certificate of competency at 166?

A Well, I spoke up against the bilingual program

I did that a lot.

What did you say?

A. They were teaching the children too much Spanish and I found out that when they entered the fourth grade, that's when they started introducing more English, and I was against it because they were not prepared to take the MTA exams. One of my colleagues from the bilingual program went over and spoke to someone, told them -- they called me

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a New York Rican; they said I was speaking against the program and I was doing it harm, and Mr. Sanchez called me and he wanted to know my opinion.

Q Who is Mr. Sanchez?

A .: The director of the program.

When did this happen?

A - January 1974.

What happened as a result of this complaint?

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They gave me a hearing at the school; Mr. Sanche: came over and, I believe, Mr. Fuentes; Mrs. Johnson, the principal, and also a representative for the parents, Mr. Modesta Rivera.

Q And what happened as a result of that hearing?

A They found out I was innocent. I was speaking against the program, yes; they did find that out, but that I wasn't harming the program so they decided --

Q Did there come a time when you had any other incident with the bilingual office?

A At the end of every year I would start having problems with the bilingual office.

Now, will you tell us your appointment to P.S. 166, on what basis was it?

A I don't understand.

Q Was it for the year or was it a permanent

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appointment?

A It was a yearly basis, started September and terminated in June.

Q Now, what happened the following year at 166?

A Mrs. Johnson would ask for me --

THE COURT: I don't understand. You are talking about a specific year?

MS. GOLDBERG: I'm trying to show that there was a course of conduct --

THE COURT: You better go year by year, it's only a few years.

ME . GOLDBERG: I thought I was.

THE COURT: I'm not clear on the year.

BY MS. GOLDBERG: (continuing)

Q In June of 1974, did anything happen?

THE COURT: '64?

MS. GOLDBERG: '74.

A I was given a letter saying my position was terminated but Mrs. Johnson was the principal, she told me that was just a format, not to worry about it, came September I came back to the school, I was again appointed under the COC, but I was given static by the bilingual office all the time.

THE COURT: By who?

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THE WITNESS: By the bilingual office; by the bilingual teachers.

Q What specifically did they do?

A They would just say I have to teach more Spanish; to stop making all the trouble, I was talking against the program, I was harming it; that was just comment.

Ω Did anything happen during that following year from September '74 to June of '75 with regard to your teaching at 166?

A Except for the problems I just kept having in and out. I would find that I would not be informed when bilingual money was given. I had to go to the principal and find out and most of the material I ordered was in Erglish, so that would create a problem right there.

O Did you receive the appropriate salary for your position?

A Well, under the COC I just -- although the COC states \$11,500, I was only given ninety-seven and that was for the three years.

Q Were you rated for your first year of teaching which was September '73 to June '74?

A Yes.

Q Were you rated by your principal at that time?

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A Yes. What was your rating? Q Satisfactory in everything. A Is this your rating ending, June '74? June '75. A 0 Were you subsequently rated in June '75? Yes. What was your rate then? A Satisfactory. . Is this your rating? Q A Yes. MS. GOLDBERG: I ask that this be marked. THE COURT: Mark it in evidence. THE CLERK: Document marked Plaintiff's Exhibit I in evidence. THE COURT: Go ahead. It shows her as a substitute teacher.

MS. GOLDBERG: I know it says a substitute because she isn't tenured, it's only for categories. BY MS. GOLDBERG: (continuing)

Did anything happen in June of 1975 with regard to your appointment as a bilingual teacher?

We were never told anything. Mrs. Johnson asked for me but no information came.

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Were you told anything with respect to the certificate of competency in June of 1975?

No, I wasn't.

Did you return to 166 in September?

of '75; yes.

And did anything happen at that time?

I took about a week or two. The first two weeks I worked without salary and it took about two weeks afterwards for them to decide to give me a COC.

And from whom do you take the certificate of competency?

From the bilingual office. I asked the bilingual office and they sent it.

Did there come a time during that school year when you were advised that your license was revoked?

Yes, some time in November of 1975. At first I received a call from a Mr. Brown and he said that my license would be revoked because I was lacking first half of credit in the method course, which I couldn't understand why. He advised me that he said I advise that you get a letter from one of your teachers that you do have a method course, I spoke with Dr. Peterson and I told Dr. Peterson about my case, after that I received a letter.

Had you received this letter first?

No, I first received a call then a letter.

2.	Q Who is Dr. Peterson?
. : : : 3 :	A Dr. Peterson was one of my professors at
4	Lehman College.
A CONTRACTOR	
5	Q Did you receive this letter before you called
6	Dr. Peterson?
· 7	A No, I received a call first.
8	Q Who is Dr. Peterson?
	A Dr. Peterson is the assistant professor of
. 9	A Dr. Peterson is the assistant professor at
10	Lehman College in the psychology department and also my
11	professor.
12	Q And subsequently, did you receive a formal
13	notice about your license?
14	A Yes, I did.
15	Q Is this it?
16	A Yes, it is.
. 17	MS. GOLDBERG: I offer in evidence a notice
18	dated November 5, 1976, to Miss Carmen J. Irizarry.
mar Art .	
19	The day is obviously a mistake. It informs her that
20	her license is ineligible and she has until November
21	26, 1975
22	THE COURT: It should be 1975.
23	MS. GOLDBERG: It should be.
24	THE COURT: Any objection to treating it as
25	a 1975 notice?

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MR. KATZ: No.

THE COURT: All right, mark it in evidence.

THE CLERK: Document marked Plaintiff's

Exhibit 2 in evidence.

BY MS. GOLDBERG: (continuing)

What did you do after you received that letter?

It said that I should write to Mr. Benjamin, which I did, asking why this notice, and they said I was lacking the methods course.

Is this the letter that you wrote?

Yes.

MS. GOLDBERG: I offer this letter dated November 1, 1975 from Mrs. Irizarry to Mr. Benjamin.

MR. KATZ: No objection.

THE CLERK: Document marked Plaintiff's Exhibit 3 in evidence.

BY MS. GOLDBERG: (continuing)

Did you receive a reply to that letter?

Yes, it took quite a while before I did, but I received a reply and it stated that I should -- if I had these method courses I should write an appeal and get a letter from one of the teachers, which I did. I got a letter from Dr. Peterson saying that the course he taught.

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although it was not under Education, it was in fact the methods course and I sent this over with a letter of appeal.

Q And this is the letter that Dr. Peterson sent to the Board of Education?

A Yes.

Q How did you get that copy? Did he send it to you?

A He sent it.

MS. GOLDBERG: Offer letter dated March 4,
1976 from Mayfield Peterson, assistant professor of
Psychology of Lehman College addressed to the
Board of Education.

THE COURT: Where is the letter from Mr. Benjamin?

MS. GOLDBERG: She doesn't have it. Do you have the letter, the Benjamin letter to Mrs. Irizarry

THE CLERK: Document marked as Plaintiff's Exhibit 4 in evidence.

THE COURT: You don't have the letter? All right, I'll assume it was written.

MR. KATZ: What was the date of the letter?

MS. GOLDBERG: We don't have a letter from

Mr. Benjamin to Mrs. Irizarry.

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MR. KATZ: This is prior to letter sent by the professor?

THE COURT: Yes, it would be.

MR. KATZ: No such letter shown in the file.

THE COURT: Let's continue.

Subsequent to Professor Peterson's letter being sent to the Board of Examiners, did you receive a reply?

A Yes.

Q And is this the reply?

A Yes, sir.

MS. GOLDBERG: Letter dated April 8, 1976 to Miss Carmen Irizarry signed by Mr. Rose, senior assistant, Board of Examiners.

THE COURT: Mark it.

THE CLERK: Document marked Plaintiff's Exhibit 5 in evidence.

Q What happened next?

A Well, then I asked for an appeal.

Q And is this letter that you sent on your appeal?

A Right.

MS. GOLDBERG: Offer a letter dated May 3, 1976 to the committee on appeals from Carmen Irizarry.

MR. KATZ: No objection.

THE CLERK: Document marked as Plaintiff's

Exhibit 6 in evidence.

THE COURT: Proceed.

Q. What happened then?

A My appeal was denied and I asked for a letter of explanation, why did they deny my appeal?

Q This is the letter that you received denying your appeal?

A Yes.

MS. GOLDBERG: Letter dated June 23, 1976 to Miss Irizarry without signature, printed form.

THE COURT: Mark it.

THE CLERK: Document marked Plaintiff's Exhibit 7 in evidence.

Q Did you subsequently receive a statement of reasons for the dismissal of your appeal?

A I had to ask for one; two letters dated July 2, 1976; one cover letter and the other a summary statement of reasons for the dismissal of appeal for Carmen Irizarry.

THE COURT: Mark it as one document, please.

THE CLURK: Two-page document marked as

Plaintiff's Exhibit 8-A and 8-B in evidence.

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2	Q Now, at the time you received that letter,
3	how long had you been teaching?
4	A Three years.
5	Q dad you been rated satisfactory each year?
6	A Yes, I was.
7	Q And were you in fact rated satisfactory for
8	the period from September '75 to June '76?
9	A Yes, I was.
10	Ω And this is the satisfactory rating for the
11	year ending June '76?
12	A Yes.
13	THE CLERK: Plaintiff's Exhibit 9 received
14	in evidence.
15	THE COURT: Does "S" mean satisfactory; "U"
16	means unsatisfactory.
17	Q Did you receive a hearing prior to having
18	your license revoked?
19	A Well, '74, I did; prior to that, no.
20	Q The hearing that you had in '74, did that
21	have to do with revocation of your license?
22	A No, it was just with my attitude towards the
23	program.
24	O Did you receive a hearing prior to having your
25	license revoked?

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Do you claim that you have taken all the courses required for the license?

Yes, I do.

And has this opinion of yours been confirmed by any other people?

A Well, back in '74 when I went back to the school, they said, yes, I had all the requirements.

Q Subsequently Professor Peterson --

A Yes, Dr. Peterson said if they had any doubt, this final course, their teaching the exceptional child was very useful in the classroom.

Q And did Mrs. Johnson make any verbal comments about your teaching methods?

A Well, every time she was there she said she liked the way I taught and that I was really getting through to the children.

Will you tell us your relation with the other bilingual teachers at P.S. 166?

We did not communicate at all. I was again marked -- it was like I was an outcast.

Tell us what you mean.

I was considered a traitor, I was raised here and I was teaching the children the American custom. When

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we had bilingual meetings every time I brooked the children should learn more English, learn how to live in this country, it was ignored.

Q Did that have any effect on the children in your class?

A They knew it was something different;

children sense anything -- they knew something was happening

I just told them, keep on learning, and that was it.

Q Now, why did you insist on learning more English to your class?

A Because, when I entered that school in '73,
I found out that they were teaching a lot of Spanish, it
wasn't the proper Spanish; and secondly, they were teaching
too much Spanish. By the time the children reached the
sixth grade they had to take a MAT, it was a city-wide
exam, you had to know comprehension and vocabulary. They
were very poor in their vocabulary and English and I
objected to that. Of course, they were being left back
because they did not know, there was no way they could
speak the language, the parents were not aware of the fact
that they were testing the children in English; I made them
know this.

Q And what was your relationship with the biling office after you spoke out against the program?

A I was not treated very well. Every time I spoke up -- except for a Mrs. Rimarez, she was backing me up all the way. She was assistant to the director.

Q Did you go to the bilingual office for help after you were dismissed this September?

A Yes, I was.

O And what did they say?

A They said it was nothing they could do about it. They were very sorry but they didn't have anyone for my position, so I stayed at the school for the first three weeks without pay covering my class, they had no one.

O Who is teaching your class?

A Now they have a bilingual teacher.

Q Licensed?

A Licensed bilingual, so I understand.

MS. GOLDBERG: I have no further questions.

THE COURT: What is the theory of the case?

MS. GOLDBERG: That her rights of free speech were violated.

THE COURT: Is there any connection that you could show between the decision of the certifying board and the bilingual authorities, board of examiners?

MS. GOLDBERG: The two run parallel to each

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other. If she had been in the good graces of the bilingual department there would not have been such an act of taking away her license.

THE COURT: How do you prove that?

MS. GOLDBERG: I don't think it's really necessary. I think it's a possible inference, the point being that she doesn't need that license to teach the bilingual class. She had a certificate of competency and she would have continued teaching that class. There are two courses of action and they are really separate; one is that she was denied, dismissed as a bilingual teacher because she spoke out against the bilingual program as it was being implemented in District 3; and the second is that she lost her license not just for a job, but she lost her license without due process of law.

THE COURT: You could have appealed that through an Article A proceeding.

MS. GOLDBERG: That's true, but this is an unemployed school teacher.

THE COURT: Well, it does seen to me very high-handed to take away her license without any investigation.

I'm reading from Plaintiff's Exhibit 8-B,

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indicating, "The criteria for the acceptability for courses and the official course title and catalogue description." It seems like bureaucratic nonsense if the content is as you described. I'm not sure that I have jurisdiction over that aspect.

MS. GOLDBERG: There is a case that I cited in my brief, the Burns case, where the Federal Court did take jurisdiction.

THE COURT: Are you going to have any other witnesses on the connection between her speaking out and her failure to be appointed by the principal or somebody?

MS. GOLDBERG: I thought that we had showed a sufficient connection to keep us in Court, and then on rebuttal we would get one of the other teachers from the school and the principal.

THE COURT: I don't think you have made out a prima facie case. I'll keep the case open.

MS. GOLDBERG: I'll have to subpoena people.

THE COURT: You can cross-examine. Won't the Board of Examiners look into this matter? Don't you think it's an unfair way to proceed when they could have had Peterson come in and tell them what the course was about?

MR. KATZ? Dr. Peterson's letter was also submitted to the Court of Appeals, the Committee of Appeals.

THE COURT: They indicate they did it on course title. He could have told them what it was. We all know that course title is not necessarily descriptive of what happens in the classroom.

MR. KATZ: But the point being that the Board of Examiners did permit her to appeal and file such documentary evidence as she wished.

THE COURT: But there is no indication that they looked at it, or that they examined Peterson, which is the main point.

MR. KATZ: She did offer to submit evidence.

THE COURT: But they didn't apparently look
at it, or if they did look at it, they could have
called this man in, after all, here is a woman without
a lawyer, immersed in the toils of bureaucracy, and
nobody seems to help her.

MR. KATZ: What usually occurs, she was offered the opportunity to submit evidence before her license was declared ineligible; she was contacted and then declared ineligible whereby she was given the opportunity to appeal. It was appealed.

any real investigations. Supposing I hold the case and allow them to give her a hearing, can that be arranged?

MR. KATZ: Before the Poard of Examiners.

THE COURT: There is a great shortage of bilingual teachers in the city. You have a dedicated teacher, she is obviously dedicated to the children, and she wants to teach and she apparently thinks that she has all the qualifications; doesn't it seem to be wasting our time with this case?

MR. KATZ: The position of the Board of Examiners, you must have the six credits in the methods course, if you do not have it they cannot start waiving it.

THE COURT: She says she has it; Peterson says that she has it. Is Peterson still alive?

THE WITNESS: He was very ill the last time I spoke to him. I don't know if he's still in New York or not. I have proof of my teaching --

THE COURT: That doesn't help you. They are not interested whether you are a good teacher. They are just concerned what the course requirements say in the bulletins.

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All right, you can cross-examine.

CROSS-EXAMINATION

BY MR. KATZ:

Q Ms. Irizarry, will you take a look at this document?

A Certificate of Competence for the year 1973.

MR. KATZ: I would like to submit this in evidence.

THE CLERK: Document marked Defendant's Exhibi-

Q Look at this.

A For the year '74-'75.

THE CLERK: Document marked Defendant's Exhibit B and C in evidence.

THE COURT: Has the Certificate of Competency been terminated?

MR. KATZ: Yes, it was not renewed for this last year, and I have a witness that will say so.

THE COURT: Why?

MR. KATZ: Because the Certificate of

Competency, position in District Board 3, is funded

by Title 7 grant from HEW. There were none for this

past year, therefore there were no lines available to

place her in.

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THE COURT: Oh, so she would have to get a permanent --

MR. KATZ: She was never appointed pursuant to the license; she was a temporary employee. She was not a teacher, she was entitled as a teacher -- she didn't teach pursuant to her license.

THE COURT: I see.

BY MR. KATZ: (continuing)

Q Were you told about the fact that your position was a temporary one each year at school board No. 3?

A I was told by Mrs. Johnson that the COC will only allow us to run from September to June; yes.

Did you discuss with anyone at school board 3

why you were not continued over until the next year -
why you were not teaching in the current school year?

COC and he said there was none available yet. It was during the summer Mrs. Johnson wrote a letter and also signed by the superintendant of District 3 asking for me this year in '76, which a copy of the letter was given to Mr. Sanchez and I was just told to hold on to my -- I was staying at the school working voluntarily to see if the COC's would come in.

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Q Is this your handwriting?

A No. I was working on the COC, I didn't have this file number, it was changed.

- Q Did you fill this out?
- A Yes, but not the changing of the notice.
- Q This is your handwriting?
- A This isn't.
- Q Is this your handwriting?
- A No.

THE COURT: Mark it in evidence.

MS. GOLDBERG: It's an application that she filled out but it's been changed substantially.

THE CLERK: Defendant's Exhibit E now marked in evidence.

THE COURT: Yes, sir.

MS. GOLDBERG: Your Honor, if you notice the last page above the signature, she says that she will comply with the requirements above the signature two paragraphs above.

BY MR. KATZ: (continuing)

Ms. Irizarry, did you have any contact with the Board of Examiners with regard to the appeal declaring your license ineligible? Did you have any contact with them?

A I don't quite understand. Right after the

appeal?

Q During the process of appeal and after the appeal, did you have any contact with the Board of Examiners discussing your relationship with other teachers in Community School Board 3?

A Not with the Board of Examiners; no.

MR. KATZ: I have no further questions at this time. I would like to secure some more documents, and I have one witness I would like to try and get in from Community School Board 3.

THE COURT: Anything further? Any redirect?
MS. GOLDBERG: No.

THE COURT: Are you going to have another witness for the plaintiff? You haven't made out a prima facie case.

MS. GOLDBERG: I would like it to be put over. There is a principal from the school and it is Dr. Peterson who is sick.

THE COURT: If the principal from the school - is he going to be able to make the connection between the speaking out and the denial of the license? I assume that you testified that her work was competent

MS. GOLDBERG: I don't think that I have to show that there is a connection between her speaking

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out and her losing the license. I think it's enough for me to show that she's lost the certificate because she's spoken out, and that I can also show.

THE COURT: The defendants are claiming that she lost her certificate because her certificate was ineligible to fit the line under this special grant.

MS. GOLDEERG: There are people with certificates teaching at District 3.

THE COURT: This kind of work?

MS. GOLDBERG: And I will bring in such a witness.

THE COURT: You have to prove that.

MS.GOLDBERG: The failure -- the ineligibility declaration by the Board of Examiners is alleged to have been done -- denial of due process rights and --

THE COURT: I don't think it rises to a constitutional level. I think it's virtually the same case as the Burns case as I quoted, and that there was really no reason to split up the two cases in an Article 79 hearing. They never determined whether there was a valid reason for denying the license, and in the Federal Court if you are denied a license and denied the opportunity to work, you lose a valid, important property under Ruth &

Sinderman (phonetically); and so we have a federal case when we have a teacher's license withdrawn without a hearing. It isn't a question of her failing -- her license wasn't really withdrawn.

MS. GOLDBERG: We claim that she has fulfilled the condition for the license. This is not a case where everybody admits that she didn't fulfill the requirements.

THE COURT: You better bring down somebody from the Board of Dxaminers.

When will you get somebody down here? They are just a few blocks away. Why don't they come down this afternoon, say around 2:30?

MR. KATZ: I would like one more piece of evidence. I did not introduce the license.

Will you identify this?

THE WITNESS: It's a copy of my license.

THE COURT: You better find out where Mr. Peterson is.

THE CLERK: Defendant's Exhibit F now marked in evidence.

MI. KATZ: It says she's subject to the conditional license.

The defendant was never appointed pursuant to

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that license, never taught pursuant to that license.

of Examiners, I want somebody here, if necessary I'll issue a subpoena and you better check on Peterson.

I'm really very doubtful about this. It certainly has been no showing between her speaking out and the certificate of competency.

MS. GOLDBERG: The difference between speaking out and failure to comply --

THE COURT: You haven't established that. It may be between her speaking out and the COC, if so, you haven't established it.

As to the other aspect, due process, we'll get somebody here who understands what happened and have him or her testify this afternoon. All right, 2:30.

(Whereupon a luncheon recess was had.)
(After luncheon recess.)

THE COURT: Are we ready for the trial?
You have a witness this afternoon?

MS. GOLDBERG: I may.

THE COURT: You don't have one yet?

MS. GOLDBERG: They left the office.

THE COURT: All right, we'll take five minutes.

(Whereupon a short recess was had.)
(After recess.)

THE COURT: All right. Swear the witness.

MS. GOLDBERG: May we have the other

witnesses leave the courtroom?

JOSEPH H. GRANT, a witness having been first duly form by a Notary Public of the State of New York, testified as follows:

DIRECT EXAMINATION

BY MS. GOLDBERG:

Q Will you tell us your educational background, please?

A I am a teacher presently. I went to a southern school, then I got a BS from South Carolina;

Masters from Antioch. I am currently working on a PhD. and I'm teaching at P.S. 166 in the physical ed program.

- Q How long have you been there?
 - A I have been there about eleven years.
- Q Could you describe the composition of the school in terms of students?

A The school is basically, it's about thirty percent -- fifty-fifty, and about thirty percent Spanish kids and twenty percent black; and fifty percent other.

Q Predominantly white?

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A I met Ms. Irizarry about three years ago and she came into the school and took over the bilingual program, that another teacher had prior to that.

O Do you recall an incident that happened in early 1974 concerning Ms. Irizarry?

A In '74 she was called before the people in charge of the bilingual program for a hearing concerning her teaching English to the bilingual class. I think what the things was, they said she was teaching too much English.

THE COURT: Unless this witness can speak from his own knowledge -- let's get to something that he's actually observed.

O Did you hear or see any of the activities concerning Ms. Irizarry at that time?

A Of course I heard in the classroom, but I also heard other teachers in the bilingual program --

MR. KATZ: Objection, hearsay.

THE COURT: I'll take that.

You may continue.

A Other teachers -- in other words, I'm trying to say how I knew about the overteaching of English, other teachers in the program said she was coming up on charges

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for teaching too much English in the program.

Did you hear or observe any other incidents at 166 concerning Ms. Irizarry?

A Well, I heard negative comments about teachers in the bilingual program as well as other teachers, negative comments concerning Carmen and her method. I also heard one paraprofessional say they were going to get Carmen out.

O Did there come a time when Ms. Irizarry left the school?

A Yes, she was excessed this year; she was out of school this year.

What did you do?

A The children in the bilingual program, they are very close to me, they were having a lot of problems in dealing with other teachers coming in a daily basis. They usually come to me, we called the person in charge of the bilingual program, and his name was Mr. Sanchez. I called him from the office and made an appointment to see him, he agreed to see us about 2:15.

When you say "us" who did Mr. Sanchez see?

Me and about ten children -- eleven children from Ms. Irizarry's class, her children.

Do you recall what he said to you and what 0

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you said to him at that time?

A Well, I expl ained to him the chaotic situation because of the teachers beating on the kids and cursing at them, and I explained that to him. I said the children miss their mother because she's their mother as far as they're concerned. I was telling them about how much they wanted to have her back and they are not learning anything, and what can he do in order to help got her back in the classroom.

Q What did he say to you?

A He said to me Ms. Irizarry was missing a half credit and that it was out of his hands, there was nothing that he could do.

What did you say to him?

I said to him, well, I was kind of angry, I said there is a teacher in my school who went away for the summer and came back with thirty credits but her license was revoked and she came back, so what's this thing about half credit with Carmen. I said evidentally she was there for three years. He walked away and said there was nothing he could do about it.

That was the entire conversation?

He took signe from the kids; he took the signs and letters and threw it on the desk, and we picked ourselves

up and left. MS. GOLDBERG: I have no further questions. CROSS-EXAMINATION BY MR. KATZ: Mr. Sanchez said the reason Ms. Irizarry wasn't going to come back was she didn't have enough credits? She was absent a half credit. And this was the reason he said that she was not coming back? Yes. MR. KATZ: I have no further questions. THE COURT: Thank you very much. MS. GOLDBERG: No redirect. THE COURT: Any further witness? I'll hear the defense witnesses. MR. KATZ: Your Honor --THE COURT: Make your motion. MR. KATZ: Request that the plaintiff's case be dismissed, failure to have proper jurisdiction no basis under the first amendment; just made allegations about sufficiency of credits, and so

forth, that lies in the hands of the Board of Examiners, most of the State Court and bringing an

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Article 78 or appeal to the Board of Education is how these proceedings are handled. There is an appeal to the New York State Department of Education.

THE COURT: Decision reserved.

ALLAN BRAUN, a witness having been first duly sworn by a Notary Public of the State of New York, testified as follows:

DIRECT EXAMINATION

BY MR. KATZ:

- O Mr. Braun, with whom are you employed?
- A I am employed at the Board of Examiners.
- ? What is your exact position?
- A I'm an executive assistant to the acting chairman.
 - Q What are the duties of an assistant?
- A I assist the examiner in all of her duties in legal affairs, in going to meetings, doing some work with appeals.
- I would like to show you an exhibit that I introduced, the announcement. I show you Defendant's Exhibit D which has already been marked in evidence. Explain that.
- A The announcement of an examination. It 's the document in which the Board of Examiners announces that an

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examination will be given; it lists the requirements, the
dates by which they must be fulfilled and various other
details concerning the examination; it's a scope, path
marks, et cetera. It's accompanied by a statement of
eligibility requirements and it is issued with an application
and the general regulations.

Mr. Braun, I show you this, will you please identify it?

These are the general regulations governing examinations

> MR. KATZ: I would like to introduce this into evidence.

THE CLERK: Defendant's Exhibit G in evidence. BY MR. KATZ: (continuing)

O Mr. Braun, will you please explain what happens when an applicant for a license with the Board of Examiners does not meet eligibility requirements?

MS. GOLDBERG: Objection.

THE COURT: Sustained.

MS. GOLDERG: No foundation.

THE COURT: I am concerned with the hearing that she got, if any.

MR. KATZ: Okay.

BY MR. KATT: (continuing)

o Mr. Braun, will you please explain the procedure of the denial or approval of an applicant's eligibility for a license.

THE COURT: I want to know what happened in this case, that's all I'm interested in.

Q Could you explain what happened in this particular case?

A In this case the applicant was requested to submit documentation.

MS. GOLDBERG: I object, unless it's shown that he has knowledge.

THE COURT: I'll permit it. Go ahead.

I assume that this is the most knowledgeable person there.

MS. GOLDBERG: We have letters written by two different people and neither one is named Braun.

THE COURT: I'll take his testimony.

The documentation is always requested after the date by which eligibility was to have been established because, obviously, you can't approve your eligibility before that date, you must have courses. In this case the minimum eligibility had to be established by September 1, 1974, so after that date applicants are requested to submit evidence.

THE COURT: I want to know what you did in this plaintiff's case, not generally.

THE WITNESS: All right. This plaintiff was requested to supply documentation of her eligability. She submitted -- she had transcripts forwarded and upon the decision of the Board of Examiners she was found deficient in a specific area which is delineated on the announcement, and that is underlined on the first page. It says --

THE COURT: Excuse me. I just want to know what you did in her case.

not have the required courses and she was so notified. She appealed that decision and the teacher of the course, which she claimed fulfilled the requirements, submitted a letter. It went through our appeals procedure, that is, two examiners read her appeal and found that it should be denied.

THE COURT: Did they read the letter?

THE WITNESS: Yes.

THE COURT: How do you know that?

THE WITNESS: That's what the examiners do when they read appeals.

THE COURT: How do you know they read the

letter in this case?

THE WITNESS: I cannot say that I saw them read the letter. If I saw them looking at it I couldn't even say they read it.

THE COURT: Was the letter given to them?
THE WITNESS: Oh, yes, surely.

THE COURT: I am reading now from Plaintiff's Exhibit 8-B. It says the criteria for acceptability of courses are the official course titles in catalogue descriptions.

THE WITNESS: That's correct.

THE COURT: What was the point of reading the letter, if they were going to base it entirely on the course catalogue descriptions?

THE WITNESS: When an applicant files an appeal it is read.

THE COURT: If they are making their decision solely on the course title and catalogue description, what was the point of their reading a letter describing the course?

THE WITNESS: Just because it was part of the appeal.

THE COURT: So it didn't make any difference, could have been not submitted? The letter could have

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RUBIUM 1 had no effect as far as this report, as far as I 2 understand it. 3 THE WITNESS: That letter, that's correct. 4 THE COURT: That's enough. 5 Any further questions of this witness? 6 MR. KATZ: No further questions at this time. 7 THE COURT: Next witness. 8 YEARWOOD, a witness having been 9 first duly sworn by a Notary Public of the State of 10 New York, testified as follows: 11 DIRECT EXAMINATION 12 BY MR. KATZ: 13 Q Mr. Yearwood, could you please describe 14 your position and your duties? 15 A I am the assistant administrative director 16 to the chairman of the board of examiners. 17 It is my function to recommend to the chairman on 18 courses dealing with eligibility for licenses. 19 Mr. Yearwood, are you familiar with the 20 requirements that the plaintiff was required to meet? 21 A Yes. 22 Q For her license? Λ Yes. 24

Q Did she meet these requirements? The plaintiff did not meet the requirements

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as stated in the announcement circular for the examinations.

What was she lacking?

She was lacking two semester hours in education courses. The announcement -- circular for the announcement states that all applicants in this examination since this is a competitive examination must have a minimum of three semester hours in instructional method and materials on the pre-kindergarten and primary level. The course that the applicant submitted to meet this requirement was not in this particular area.

- Do you recall what course it was?
- It was for the --A

THE COURT: Give him the exhibit, Plaintiff's Exhibit 4.

I show you Plaintiff's Exhibit 4.

A The course offered by the applicant was entitled Psychology of exceptional children. This course is clearly, in my estimation, a course dealing in psychology. It is not a course in method which means how to -- method of instruction.

> THE COURT: How did you determine that? THE WITHESS: This was determined by the course description from the catalogue from Lehman College.

1 hoover of 2 THE COURT: Did you do enything about going in to see what actually was taught? 3 THE WITNESS: Going into the school? No, 4 I did not. 5 THE COURT: Did you interview the professor 6 in charge of the course to see what he was teaching? 7 THE WITNESS: We received a letter from the 8 professor. 9 THE COURT: Did you reconsider your decision 10 in view of that letter? 11 THE WITNESS: It has been our experience --12 THE COURT: Excuse me. Answer my question, 13 please. 14 Read it back to the witness. 15 (Whereupon question was re-read as requested.) 16 THE WITNESS: Our decision was not reconsidered 17 in view of the letter. 18 THE COURT: I have no further questions. 19 BY MR. KATZ: (continuing) 20 Q Mr. Yearwood, when you made your initial 21 decision, was the letter before you? 22 Let me rephrase the question. 23 When you made your decision regarding the eligibility

of the applicant, was the letter before you at that time?

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A No, I didn't have the letter then.

Q What criteria did you use?

The only criteria we used was the official course description in the catalogue, which is the only criteria that we can judge. We have found that we cannot accept professor's words for courses. We have found a number of instances where conflicting statements as to what was actually taught in a course having received from professors. The only official word that we have to go by is what is printed in the catalogue. It behooves the registrar of the school, if what is printed in the catalogue is incorrect that they should publish an addendum to the catalogue stating that this is what will be taught in this course. This was not done in this case, so the only official word we have to go by is what is officially published in the catalogue.

Q I show you this, Mr. Yearwood, will you please identify it.

A This is the copy of the catalogue for

Lehman College and also a photocopy of a course in the

department of education at Lehman College entitled,

Method and Material in Early Childhood. This course would

unquestionably qualify the applicant for this requirement.

O Did the applicant take this course?

AD CO., BAYONNE, N.J. 07002 . FORM 7

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I did not see this course registered on the applicant's transcript. THE COURT: Mark that as an exhibit. THE CLERK: Defendant's Exhibit H now marked in evidence. THE COURT: This is what course? THE WITNESS: Method and Materials. MR. KATZ: Of Early Childhood. THE COURT: What number is that? THE WITNESS: Education 317 on page 155; and 318 would be a continuation of 317. THE COURT: When is it given, in the fall and the springtime? THE WITNESS: These were courses -- yes, in the fall and spring from '72 to '73. THE COURT: Are these the only such courses? Would there be spring courses? She couldn't take this now, could she? A She could not take the course now. THE COURT: This year would be too late to register now for this course, I would suppose. 23

THE WITNESS: For this semester she would have to register for the February semester.

THE COURT: Could she take 318 without taking

317?

THE WITNESS: Probably not. It says a continuation of education.

THE COURT: Is there a spring course that would meet the requirement?

THE WITNESS: I would imagine so.

THE COURT: Probably at Columbia.

THE WITHESS: Any accredited college.

BY MR. KATZ: (continuing)

O Mr. Yearwood, I refer you to the other page of the X-erox of this catalogue. When plaintiff submitted the Psychology of Exceptional Children, how did you rate that?

Children is first of course, taken in the Psychology

Department. We usually do not accept courses taken in

the Psychology Department because they are clearly not

education courses. This course, as I remember ruling on

this course, it does not meet the requirements as an

instructional method and materials course. It's mainly

for the psychology of exceptional children, it has nothing

to do with method or methods of instruction which is teaching.

Q Is this the basis of your ruling of your termination?

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This was the basis of the ruling.

MR. KATZ: No further questions.

THE COURT: Any cross-examination?

MS. GOLDBERG: Yes.

CROSS-EXAMINATION

BY MS. GOLDBERG:

Q When are the transcripts and applications of persons taking licensing exams reviewed?

A First of all, the application must be received before the examination is given.

THE COURT: When is the examination?

announced; announcement circular is put out and also the general regulation for the examination.

We are bound by all of the dates in the announcement circular; transcripts are checked as was said before, some time after the date for meeting those requirements. For obvious reasons we cannot check them before. Therefore, the official transcripts were not asked for until after the date of September 1974.

Q Prior to taking the exam, you have no knowledge of whether the person who had applied to take the exam has majored in education or psychology, or reading or theatrics?

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When do you check to determine whether a teacher has fulfilled the licensing requirements?

A Well, there is a minimum requirement which is usually six months to a year after the date of the examination, and it's checked some time after that date.

Now, do you know the date completed minimum requirements of this particular licensing exam?

A I don't have it from memory. I believe it was September '74.

? Yes, that's right.

Now, when did you check Ms. Irizarri's transcript to determine whether or not she had completed the minimum requirements?

A I do not know when the official transcripts were asked for. I know it was asked for some time after September 1974. When they were asked for, then they were checked, I did not check her transcript originally.

- O Do you know who checked her transcript?
- A I don't know exactly who.
- Q Do you know what happened after her transcript was checked?
 - A After it was checked she was probably notified

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that she was short --

THE COURT: If you don't know, just say you don't know.

- A (continuing) No, I don't know.
- Q Do you know if the time for completion of minimal requirements has ever been extended?
 - A No; my knowledge is that has never been done.
- Has it been done recently to permit persons who took the '69-'70 examination to complete their Masters degree?

THE COURT: Sustained.

Q What is the usual procedure when a person has not completed the minimal requirements? What does your office do? First of all, is it the function of your office to do anything when a person has not completed the minimum requirements?

A They are notified as to the number of credits they are short.

Q Why are they so notified?

THE COURT: Sustained.

Q After a person is notified that they are short credits, do they have the opportunity to complete those credits?

THE COURT: Sustained.

J.	Is a	a letter	sent	notifying	the	person
	THE	COURT:	Sust	ained.		

O Have you ever heard of inter-disciplinary courses on a college level?

MR. KATZ: Objection.

THE COURT: Sustained.

MS. GOLDBERG: This is an expert on college credits, college courses; I'm allowed to test his knowledge.

THE COURT: I am not treating him as an expert, with all due respect, but he's not here as an expert witness. He's here as a factual witness.

Q Did you personally have anything to do with Carmen Irizarry's application or revocation of license?

THE COURT: If you remember.

I don't remember. I deal with -THE COURT: That's all.

MS. GOLDBERG: I have no further questions.

THE COURT: Any further witnesses?

Both sides rest.

MR. KATZ: I would like to recall Mr. Braun.

THE COURT: You may.

ALLAN BRAUN, having been previously duly sworn, resumed the stand and testified further as

*CNGA 3410 .

follows:

REDIRECT EXAMINATION

BY MR. KATZ: (continuing)

Q Mr. Braun, when a license is issued subject

to meeting certain conditions, how do you do that?

MS. GOLDBERG: Objection.

THE COURT: Sustained.

MR. KATZ: No further questions.

The Mary to run short quadration

Can I possibly look at the exhibit for a

minute, just for a short second?

THE COURT: The following constitutes my

findings of fact and lore.

The plaintiff has failed to prove that she was at all punished for the exercise of her constitutional rights of free speech in criticism of the program. The Court is not convinced by a preponderance of the evidence that she was denied her position as a teacher under the Certificate of Competency. There has been a complete failure of proof to show that funds were available so that payment for this teaching under a Certificate of Competency under title 7. Continue. Rumors with respect to punishment of the defendant for the exercise of free speech do not have sufficient

probative force to warrant a finding for the plaintiff in this respect.

The cause of action based upon violation of her rights to free speech is denied.

With respect to the certificate date,

January 22, 1975, Defendant's Exhibit F, which is
a license to serve as a teacher of bilingual early
childhood of classes, that certificate was a
conditional certificate, clearly issued subject
to the plaintiff's having received at least three
semester hours on instructional methods on the
pre-kindergarten and primary level (see Defendant's
Exhibit D.)

The evidence shows by a clear preponderance that the plaintiff was told by her instructors and other officials at her school, the Herbert H.

Lehman College, that she had satisfied these requirements. I credit her testimony with respect to her interviews with people at the school on this matter, and Plaintiff's Exhibit 4 being a letter from Mayfield Peterson. Mr. Peterson, the Court believes, based on the information given at this hearing, is now ill and unavailable conveniently as a witness. Plaintiff therefore reasonably

believed that she had met all the conditions. When she applied for a hearing, a hearing was granted, however, under the practice and procedure of the Board of Examiners, Board of Education, the decision with respect to whether a course complied with the requirements was made solely upon the basis of the printed course schedule, in this case as revealed by Defendant's Exhibit H, the undergraduate bulletin to Rerbert H. Lehman College for 1972-'73. In accordance with the practice the Board of Examiners both at the trial and the appellate level failed to consider any information with respect to the actual course content.

The Court takes judicial notice of the fact
that there is often a wide discrepancy between
description in the bulletin and course content. It
is a well known fact that in academic affairs when
the same course is given by different people, even
though the description is the same, the content may
vary very considerably. This does, of course, present
a serious problem for the Board of Examiners, this
is no criticism of its method in this finding.

Under the circumstances, however, any kind of a hearing worthy of its name under the Constitution

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would have required a consideration of what was actually taught to this plaintiff. While the appeal and hearing does not have to form "a full this time" it requires at least an opportunity to furnish all relevant materials on the issues before the trial examiner and the appellate tribunal (see Berns v. Civil Service Commission, City of New York 537S 2nd, 714, 2nd circuit 1976.)

Following the Berns case a proper method of disposing of this litigation would be to reinstate the certificate pending a full hearing followed by appellate procedure, if necessary of the Board of Examiners. In view, however, of the illness of the instructor, and the practice at the Board of Examiners, plaintiff would be seriously disadvantaged by any hearing held at this time.

In the exercise of its equitable powers, therefore, the Court orders as follows: The Certificate dated 1/22/75, file No. 469113 of the plaintiff will be reinstated as of today 's date. It will remain in conditional form, condition being that by July 1, 1977, plaintiff will have satisfactorily completed at least two credits,

Instructional Method and Materials on the Pre-Kindergarten and Primary Levels in any institution of learning approved by the Board of Examiners.

Before registering for such a course, she may apply in writing to the Board of Examiners for advisory opinion that the course will meet the requirement. If she has failed to furnish a satisfactory transcript on completion of such course by August 1, 1977, certificate will be cancelled.

This decision means that the plaintiff is as of this moment a certified teacher of bilingual early childhood classes in Spanish, and she may be reemployed as such a teacher in any school which will have her in the City of New York.

Any further findings of fact or lore that either side requires at this time --

MR. BRAUN: The difference between the psychology course and the requirement of the announcement is that the announcement requires a course in the professional study of education. The psychology course is taught by the faculty of psychology, not education. The decision does not mention the professional study of education.

It just says the course in the teaching method.

THE COURT: It will have to be a professional course approved by you.

MR. BRAUN: The psychology course is not an education course.

THE COURT: I understand your position, neither you nor I know, except through the letter of Mr. Peterson. What this man was teaching as far as we know, he may have been teaching the same content.

MR. BRAUN: Even if he were teaching the same content, which is impossible on the basis of the course description, it is not a professional education course. This is a license of early childhood. There are requirements for only three credits in early childhood education, taken as professional educational courses.

THE COURT: What is the difference whether it's taught in psychology --

MR. BRAUN: I don't think you would accept for a law degree to be taught in a department of psychology.

THE COURT: I was on the faculty of Columbia, we specifically changed our requirement

PENGAU CO., BAYONNE, N.J. 07302 . FORM

recognizing just this factor, and the Court of.

Appeals of the City of New York approved a certain

amount of courses taken in these other departments.

MR. BRAUN: We say you must have three credits.

THE COURT: This woman was told at Hunter --

MR. BRAUN: Hunter doesn't give the requirements. Our general announcement says, "Persons who wish to make inquiry or to seek advice concerning eligibility or any other matter related to --"

technique. We have special circumstances. This is a court of equity. We exist to take care of special circumstances, I have taken care of them. This is not a precedent for other cases and will proceed. All the information I have indicates that this is a talented teacher and she was mislead here, I think we ought to rectify the situation and move ahead. It doesn't affect your general procedures whatsoever. I understand your problem. Thank you very much.

If you wish to appeal, you may appeal. Submit an order.

MR. KATZ: You want the license reinstated

today?

THE COURT: Today. Thank you very much.

* * *

PENGAU CO., BAYONNE, N.J. 07002 . FOR

PLAINTIFF'S EXHIBIT 1 - REPORT ON TEACHING SERVICE DATED 4/17/75

8x-29-100M-9/71

THE BOARD OF EXAMINERS

BOARD OF EDUCATION OF THE CITY OF NEW YORK

P. S. 166 H 9/23 - pro. 65 Court Street Brooklyn, New York 11201

#229

Report on Teaching Service

Note:	This report will play an important	part in the evaluation of thi	s applicant for	a teaching	license in	New	York	City.	Your
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FOR THE BOARD OF EXAMINERS

PLAINTIFF'S EXHIBIT 2 - NOTIFICATION OF INELIGIBILITY DATED 11/5/76

BOARD OF EDUCATION CTTY OF NEW YORK
65 Court Street
Brooklyn, New York 11201

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The Chancellor and the Administrator of Business Affairs	have been notified that your	
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Thon receipt of this form please show it to make principle	1	
Upon receipt of this form please show it to your principal	I if you are serving in a school	•
Mindly return your license to the Eureau of Appointment, Brooklyn, New York 11201.	6th floor, 65 Court Street,	
REGULATIONS GOVERNING PROCEDURES FOR	ASCERTAINING REASONS	
FOR DENIAL OF EXTENSION O	F VALIDITY	
Applicants who have been denied extension of validity or	140000 Com 44014-45414	
request a STATEMENT OF REASONS prior to formal appeal by	writing to the appropriate	
HEAD OF EXAMINING UNIT (sheeked, below) 55 Court Street:	arrowing oo one appropriate	
UNIT 1, CATHERINE CAHILL	UNIT 4, MICHAEL HOWLEY	
UNIT 2, ALVIN KULICK	INTER E ATTENDED TOUTAGE	
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You have until NOV 2 5 175 to obtain that requests after this date cannot be hotored.	the statement. Please be inform	ed



Carmen J. Irizarry 801-82 Street North Bergen, New Jersey 07047 Nov. 21,1975

Board of Education 65 Court Street Brooklyn, New York

#

Attention: Mr. Albert Benjamin Unit 5

RE: Ineligibility of license

Dear Sir, I would like to request a statement of reason for the denial of my license. Furthermore, I would like to know if there are any steps I may take to correct this.

Thank you for your prompt attention to this matter.

Yours truly.

Carmen J. Arizarry

PLAINTIFF'S EXHIBIT 4 - LETTER OF MAYFIELD PETERSON, Ph. d. DATED 3/4/76

HERBERT H. LEHMAN COLLEGE

MAR 3 0 1976

DEPARTMENT OF PSYCHOLOGY

BRONX NEW YORK 10468

12121 960-8208

New York City Board of Education 65 Court Street Brooklyn, New York 11201

March 4, 1976

Dear Sir/Madam:

I am writing this letter on behalf of Ms. Carmen J. Irizarry relative to a course which she took with me in the Department of Psychology at Lehman College in the fall of 1972. The course is entitled "Psychology of Exceptional Children." However, I must say that the majority of students who take this course are from our Department of Education. Therefore, I have taught the course from the vantage point of the general needs of the students, ie theory, methodology, prescription and application in the classroom setting. Essentially I am suggesting that my course is more geared to the methods of the educational and teaching processes than it is to a traditional liberal arts course in psychology. In reality I feel that the course should be taught in the Department of Education rather than the Department of Psychology.

My course is a three semester course and Miss Irizarry achieved a grade of "a" in the course.

It is my contention that almost all children who are classified as exceptional (except the gifted) have some emotional as well as educational disabilities. Therefore, I have always placed great emphasis on both understanding the child as well as remediation of the problem whether it be emotional, social, or educational. I feel comfortable in saying that the course was taught as though it invalves was planned in methods of education and psychology involved in educating exceptional children.

You will find in pursing the text books on "Psychology of Ratz Exceptional children" that there is as much emphasis on the educations and training of these youngsters as there is on psychology per se. Examples of this point are very well demonstrated in such texts as "Tthe Psychology of Exceptional Children" by Crukshank as well as a text by Garrison and Forrest entitled the same as Dr. Crukshanks books only to mention a few.

If there are further questions about Ms. Irizarry relative to anything that I have said please feel free to contact me at home 91h-359-225h or at Lehman College 212 960-845h (office) or 212-960-820h (Psychology office). If you do not reach me by phone at my office you may always leave a message in the psychology office. Also, you may write to me at the address above at Lehman College.

I hope I have satisfied your concerns relative to Miss Irizarry. I close this letter by saying that Miss Irizarry was a very sincere, mature, ambitious, and intelligent young woman. I would strongly recommend her to anyone. If given a chance I am sure she will make a great contribution to education in the future.

Sincerely

Mayfield Peterson, Ph.d.

Asst. Professor of Psychology

Miss Carmen Irizarry 801 82nd Street North Bergen, New Jersey 07047

April 8, 1976

Mins Cormon Irizarry 801 82nd Street North Bargen, New Jersey 07047

Doar Miss Irizarry:

We have received a letter from Mayfield Peterson, Asst. Professor of Psychology at Lemman College on your behalf. A copy is enclosed.

In order to understand the intent of Professor Peterson's letter, I checked your file. I find that your Filingual E.C. license (excelention of 2/7h) was terminated 11/75, effective at the close of schools of a 30, 1976. It was terminated because you failed to meet one of the eligibility requirements by 9/1/7h, that is 3 crodits in methods and materials of teaching in the early childhood grades.

If you wish to appeal the termination, you may do so. Write to:

Mr. C. Holmas, Chairman of the Committee on Appeals 65 Court Street Brooklyn, NY 11201 Room 306

You should understand, however, that a letter from a professor does not constitute an appeal, Also, you should be aware that appeals are entertained within 30 days of termination of license. It is possible, therefore, that any appeal you file now will not be considered timely.

Yours truly,

S. Rose Senior Assistant Board of Examiners, Unit V

SR:mo co: Mayfield Peterson

RECEIVED

MAY 1 0 1976

CLARENCE C HOLMES BOARD OF EXAMINERS

> Carmen J. Irizarry 801-82nd Street North Bergen, New Jersey 07047 May 3rd, 1976

Mr.C.Holmes
Chairman of the Committee on Appeals
65 Court Street
Brooklyn, New York 11201 Room 306

Re: Appeal

Dear Sirs

I am appealing your decision that I lack & credit of a methods course needed for the validation of my Bilingual Early Childhood license.

I have already submitted documentation that would substantiate my claim that I have met all requirements, but I am filing this formal appeal as you requested in your letter of April 27,1976 headed "Information on the Appeals Procedure".

I am enclosing a copy of a letter written by Dr. Mayfield Feterson, Asst. Professor of Psychology at Lehman College, which states that the course "Psychology of Exceptional Children", which I am submitting as the methods course for the 2 credit I lack, was indeed a methods course as taught by him. This course was completed by me in Jan. 73, considerally prior to the cut-off date of September 1974.

The course was taken at Lehman College in the fall of 1972. The titled of the course was "Psychology of Exceptional Children", It included the theory, methodology, prescription and application in the classroom setting It was a 3 credit course. Therefore, it fullfills the requirements for walidation of my license which were to have been met by 9/74.

Thank you for your prompt attention to this matter.

File #: 469113 Written test taken on: Feb.'74 Subject & level of license: Bilingual Early Childhood, Day Elementary School. Yours truly.

Carmen J. Iryarry

PLAINTIFF'S EXHIBIT 7 - NOTIFICATION OF APPEAL GOARD OF EDDISMISSAL DATED 6/23/76

THE BOARD OF EXAMINERS

65 COURT STREET, BROOKLYN, N.Y. 11201

JULIUS R. RUBIN, Chairman CLARENCE C. HOLMES, Vice Chairman ETHEL FITZGERALD MURRAY ROCKOWITZ

IRVING ANKER, Chancellor

THOMAS J. McGEE
Administrator
WILLIAM E. SROWN
Deputy Administrator
SIEGFRIED ROTH

June 23, 1976 /

Miss Carmen J. Yrizarry 801 82 Street North Bergen, New Jersey 07047

Dear Miss Trizatey:

The Board of Examiners regrets to inform you that your appeal on

Ineligibility in the examination of February 1974

for license as Bilingual Teacher Early Childhood Classes (Spanish) in D.E.S.

was not sustained.

Your appeal was referred to a committee on appeals consisting of examiners who did not participate in the conduct or rating of the test in question. Careful consideration was given to the statement and evidence you submitted. However, the committee was convinced that the substance of your appeal did not justify setting aside the original judgment in this test.

An applicant who wishes a summary statement of the reasons for the denial of his appeal may write to the Committee on Appeals, Room 306, at this address within thirty dag from the date of this notice.

THE BOARD OF EXAMINERS

PLAINTIFF'S EXHIBIT 8a- SUMMARY OF REASONS FOR DISMISSAL OF APPEAL

BOARD OF EDUCATION OF THE CITY OF NEW YORK

THE BOARD OF EXAMINERS

65 COURT STREET, BROOKLYN, N.Y. 11201

JULIUS R. RUBIN, Chairman CLARENCE C. HOLMES, Vice Chairman ETHEL FITZGERALD MURRAY ROCKOWITZ

IRVING ANKER, Chancellor

THOMAS J. McGEE
Administrator
WILLIAM E. BROWN
Deputy Administrator
SIEGFRIED ROTH
Sacretary

July 2, 1976

Dear Miss Irizarry:

In accordance with your request dated June 28, 1976, enclosed herewith is the Summary Statement of Reasons for Dismissal of your appeal.

Sincerely yours,

Clarence C. Holmes Examiner in Charge of Appeals

CCH: SM: em Enclosure

Carmen Je Driving

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25/20 A2/20

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PLAINTIFF'S EXHIBIT 8a- SUMMARY OF REASONS FOR DISMISSAL OF APPEAL

July 2, 1976

Summary Statement of Reasons for Dismissal of Appeal on ineligibility

for License as Bilingual Teacher Early Childhood
Classes (Spanish) in D.E.S.

Carmen J. Irizarry

The license was granted as a result of the examination of February 1974, subject to meeting minimum eligibility requirements by September 1, 1974. Extension of validity of license was denied because the appellant did not complete, by September 1, 1974, 3 credits in instructional methods and materials on the pre-kindergarten, kindergarten and primary level.

The appellant states that she is appealing the decision that she lacks 1/2 credit of a methods course. She offers the three credit course, "Psychology of Exceptional Children" as a methods course. In support of her appeal she submits a copy of a letter from the course instructor. She also submits a copy of a letter from the Senior Assistant of the Licensing Unit which clearly informs appellant that her license was terminated because she lacked three credits in methods and materials of teaching in the early childhood grades.

A review of appellant's transcripts indicates that while she had many credits in education courses, only one was a course in methods: Education 325, Teaching Art in the Elementary School. This was a two credit course. However, a course in elementary school methods can be accepted only at half-credit toward a course in methods of instruction on the early childhood level. Then we may allow one credit of this course toward the required three credits.

The criteria for the acceptability of courses are the official course titles and catalogue descriptions. Although representation is made that instructional techniques were included in the course, "Psychologyy of Exceptional Children" it is clear that the major concentration was on the special psychological problems of exceptional children, and not in methods and materials on the pre-kindergarten, kindergarten and primary level.

The appellant, then, by September 1, 1974 lacked two semester hours toward the required total of 3 semester hours in instructional methods and materials on the pre-kindergarten, kindergarten and primary level.

All examinations are governed by definite rules which are clearly set forth in the pertinent examination announcement. In this case, the examination announcement specifically delineated that minimum requirements were to be met by September 1, 1974. Requirements and the dates for meeting requirements are established by the Board of Education in its bylaws. These requirements are mandatory and may not be violated by the applicant or by the Board of Examiners.

In view of the legal constraints, neither the Board of Education nor the Board of Examiners has the power to grant time extensions or to waive requirements. It was incumbent upon the appellant to be familiar with and satisfy requirements as stipulated.

The appellant has failed to adduce evidence to establish that she has completed requirements as mandated. Therefore, the appeal is dismissed.

THE BOARD OF EXAMINERS

65 COURT STREET, BROOKLYN NY. 11201 THOMAS J. McGES IUS R. RUBIN, Chairman 70 Administrator RENCE C. HOLMES, Vice Chairman PLAINTIFF'S EXHIBIT 8b- SUMMARY OF REASONS ED Reministrator EL FITZGERALD RRAY ROCKOWITZ DISMISSAL OF APPEAL SIEGFRIED ROTH ING ANKER, Chancellor July 2, 1976

Dear Miss Irizarry:

In accordance with your request dated June 28, 1976, enclosed herewith is the Summary Statement of Reasons for Dismissal of your appeal.

Sincerely yours,

Clarence C. Holmes

Examiner in Charge of Appeals

CCH:SM:em Enclosure

Cormen Je Strijerry

1/10 A2/20

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PLAINTIFF'S EXHIBIT 8b- SUMMARY OF REASONS FOR DISMISSAL OF APPEAL

July 2, 1976

Summary Statement of Reasons for Dismissal of Appeal on ineligibility

comination of February 1974 for License as

T

for License as Bilingual Teacher Early Childhood Classes (Spanish) in D.E.S.

Carmen J. Irizarry

The license was granted as a result of the examination of February 1974, subject to meeting minimum eligibility requirements by September 1, 1974. Extension of validity of license was denied because the appellant did not complete, by September 1, 1974, 3 credits in instructional methods and materials on the pra-kindargarten, kindergarten and primary level.

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In view of the legal constraints, neither the Board of Education nor the Board of Examiners has the power to grant time extensions or to waive requirements. It was incumbent upon the appellant to be familiar with and satisfy requirements as stipulated.

The appellant has failed to adduce evidence to establish that she has completed requirements as mandated. Therefore, the appeal is dismissed.

THE BOARD OF EXAMINERS

PLAINTIFF'S EXHIBIT 9 - INDIVIDUAL RATING REPORT DATED 6/16/76

THE CITY SCHOOL DISTRICT OF NEW YORK INDIVIDUAL RATING REPORT

NameMiss	Carmen Iriza	errySoc. Se	c. #063-3	6-7131 File	# # 1,69113
SchoolPS166					trict # 3
License BL EC	С	Ter	n-Tenured Sc	Probationer	☐X - Substitute
Rating S For (S, U, or D)	the Period From_			To 6/30/76	
Cur	rrent Salary Rate	\$ 3700		Per Annum	
Absence Excluding Non-Attendance	Lateness	Days in <u>or</u> C. A. R.*	ed		Days of Substitute Service
16 9 0 0	11 1 19	1	Days**		
*Regularly appoin **May not exceed Dated	20 for regularly 5 Signature of	appointed staff	regular sul	ostitutes, 120.	~~~
	ORIGINAL DUPLICATE	To Staff Memb For School File		TIONAL COP	ES if required reverse
25-2800 40.0 9000 PKGS) 12:72					F 00 161

DEFENDANT'S EXHIBIT A - CERTIFICATE OF COMPETENCY DATED 2/7/74

The City School District of May York Office of Porsonnel - Surcau of Appointment 65 Court Street, Brooklyn, New York 11201

CERTIFICATE OF CONFETENCY

February 7, 1974

W.Z:

Carmen J. Irizarry

ADDRESS:

635 West 174th St. N.Y.C. 10033

BIRTADATE: 6-17-46

FILE # 903 739

SCC. SEC. NO. 065-36-7131

PAYRCLL: R740 COMSPEC X

PCSITICA: Instructor of Hispanic Culture

. PROGRAM:

Bilingual Program E.S.A.A.

FENCTION # 37-45701

SALARY RATE \$11,500 per annum

TRS.OF WORK: 8:40 A.M.+3:00 P.M.

EFFECTIVE DATE 9-17-73

VACATION:

EXPIRATION DATE 6-30-74

WORK LOCATION: District #3

THE ABOVE MENTIONED FERGER HAS BEEN FOUND COMPETENT TO SERVE IN THIS POSITION, SUBJECT TO THE FOLLCHING CONDITIONS:

- 1. This certificate is issued subject to termination by the Chancellor at any time.
- 2. This certificate may be terminated if results of medical and fingerprinting . clearance are not satisfactory.
- 3. That funds are available in the program under which assignment has been sought.
- 4. That a Position Control Change Notice (PCCN) authorizing this appointment has been submitted and approved.
- 5. The holder of this certificate may serve only in the position or subject for which it is granted and may herve only in the program indicated above. This certificate may not be used for any other program or position.
- 6. A certificate of competency does not confer tenure upon the holder of such a certificate. Such employment is temporary in nature and will terminate at the end of the program for which the certificate was issued, or at the end of the fiscal year during which the certificate was issued, whichever comes
- 7. Any change of address, or any change of none and circumstance therefore (e.g. marriage, court order) should be promptly reported to the head of the activity under which appointed is serving. This information should also be reported to the Bureau of Appointment.

k C. Amical IIg OFFICE OF PERSONNEL

ec: Superintendent Joseph Elias Payroll Unit JL: eg Bud at Unit Applicant

DEFENDANT'S EXHIBIT B - CERTIFICATE OF COMPETENCY DATED 9/24/74

The City School District of New York Division of Personnel - Office of Pedagogical Personnel 65 Court Street, Brooklyn, New York 11201

THE TAXABLE VERY TAXABLE VALUE OF THE PARTY

September 24, 1974

CAMA:

Carmen Irizarry

ADDRESS:

801 82nd Street

North Bergen, New Jersey 07047

PERTHEATE:

6/17/46

FILE # 903739

SCC. SEC. NO.

065-36-7131

LICENSE: BASIC NON-BASIC X

: NOITE SOIT

Instructor - Ethnic Studies

PROGRAM:

Dist. #3 ESAA Bilingual Program

FUNCTION #

37-55701

HRS. OF WORK:

8:40 - 3:00 - 5 days per week

SALARY RATE \$11,500 per annum

VACATION:

EFFECTIVE DATE

9/4/74

WORK LOCATION: District #3

EXPIRATION DATE 6/30/75

RENEWAL

THE ABOVE MENTIONED PERSON HAS BEEN FOUND COMPETENT TO SERVE IN THIS POSITION, SUBJECT TO THE FOLLGIING CONDITIONS.

- 1. This certificate is issued subject to termination by the Chancellor at any time.
- 2. This certificate may be terminated if results of medical and fingerprinting clearance ere not satisfactory.
- 3. That funds are available in the program under which assignment has been sought.
- 4. That a Position Control Change Notice (PCCN) authorizing this appointment has been submitted and approved.
- 5. The holder of this certificate may serve only in the position or subject for which it is granted and may serve only in the program indicated above. This certificate may not be used for any other program or position.
- 6. A certificate of competency does not confer tenure upon the holder of such a certificate. Such employment is temporary in nature end will terminate at the end of the program for which the cortificate was issued, or at the end of the fiscal year during which the certificate was issued, whichever comes
- 7. Any change of address, or any change of name and circumstance therefore (e.g. marriage, court order) should be promptly reported to the head of the activity under which appointed is serving. This information should also de reported to the Office of Pedagogical Personnel.

EXECUTIVE DIRECTOR DIVISION OF PERSONNEL

cc. Superintendent Joseph Elias Payroll Walt MMS: cn Eudget Unit Applicant

George Sanchez, Coordinator

DEFENDANT'S EXHIBIT C - CERTIFICATE OF COMPETENCY DATED 9/25/75

THE CITY SCHOOL DISTRICT OF NEW YORK DIVISION OF PERSONNEL - OFFICE OF PEDACOGICAL PERSONNEL 65 COURT STREET, BROOKLYN, NEW YORK 11201

CERTIFICATE OF COMPETENCY

September 25, 1975

NAME:

Carmen J. Irizarry

ADDRESS:

801 82nd St. North Bergen, N.J. 07047

BIRTHDATE:

6-17-46

FILE # 469113

SOC. SEC. NO. 055-36-7131

LICENSE MASIC NON-BASIC

POSITION:

Instructor-Ethnic Studies (Hispanic Culture)

PROGRAM:

Bilingual Title VII E.S.E.A.

FUNCTION #

37-67601

HRS. OF WORK: 8:40 A.M.-3:00 P.M.

SALARY RATE __S11,640 per annum

VACATION:

EFFECTIVE DATE 9-3-75

WORK LOCATION: District #3

EXPIRATION DATE 6-30-76

THE ABOVE HENTIONED PERSON HAS BEEN POUND COMPRESS TO SERVE IN THIS POSITION, SUBJECT TO THE POLLCWING CONDITIONS:

- This certificate is issued subject to termination by the Chancellor at any time.
- This certificate may be terminated if results of medical and fingerprinting clearance are not satisfactory.
- 3. That funds are available in the program under which assignment has been sought.
- That a Position Control Change Notice (PCCN) authorizing this appointment has been submitted and approved.
- The holder of this certificate may serve only in the position or subject for which it is granted and may serve only in the program indicated above. This certificate may not be used for any other program or position.
- A certificate of competency does not confer tenure upon the holder of such a cartificate. Such omployment is temporary in nature and will terminate at the end of the program for which the certificate was issued, or at the end of the fiscal year during which the certificate was issued, whichever comes first.
- 7. Any change of address, or any change of name and circumstance therefore (e.g., marriags, court order) should be promptly reported to the head of the activity under which appoints is serving. This information should also be reported to the Office of Pedagogical Personnel.

HXECALIAE DISECTOR DIVISION OF PERSONNEL

Superintendent Clinton Howze, Jr. Payroll Unit LM: eg Budrat Unit Applicant Program Director

DEFENDANT'S EXHIBIT D - EXAMINATION ANNOUNCEMENT (S.314b)(Alt.A) (Bilingual 2.C.C.)(Spanish) (57-73).

EXAMINATION ANNOUNCEMENT

BOARD OF EDUCATION

BOARD OF EXAMINERS 65 Court Street, Brooklyn, New York 11201 CITY OF NEW YORK

EXAMINATION FOR LICENSE AS BILINGUAL TEACHER OF EARLY CHILDHOOD CLASSES (SPANISH) IN DAY ELEMENTARY SCHOOLS (GRADES PRE-KG-2)

> UNDER ALTERNATIVE A REQUIREMENTS (Men and Women)

EXAMINATION CODE NO. 798 A

PLEASE PLACE THE NAME OF THE LICENIE AND THE EXAMINATION CODE NUMBER IN THE SPACES PROVIDED AT THE TOP OF YOUR APPLICATION.

December 11, 1973

The Board of Examiners announces that, at the direction of the Chancellor, an examination will be held for license as bilingual teacher of early childhood classes (Spanish) in day elementary schools under Alternative A requirements in accordance with the schedule set forth below:

December 11, 1973:

Initial date for filing applications.

January 22, 1974:

Final date for filing applications.

February 6, 1974:

Date by which applicants should receive notice of admission, including information as to the exact time and place, to the written test. Applicants who do not receive notice by this date are advised to call 596-6076, at once.

February 13, 1974:

Date of written test.

September 1, 1974:

Date by which applicants must meet the following minimum eligibility requirements, unless entitled to an extension of time under the Military Leave Regulations of the Board of Education: A baccalaureate degree and 6 semester hours in the professional study of education, including at least 3 semester hours in instructional methods and materials on the pre-kindergarten, kindergarten and primary level. Time Extensions below.)

TIME EXTENSIONS: Applicants will be permitted to complete

by September 1, 1975, at least 2 semester hours of study in the methods and techniques of teaching reading skills required under PREPARATION (2)(b).

by September 1, 1976, the remainder of the 6 semester hours of study in the methods and techniques of teaching reading skills required under PREPARATION (2)(b).

by September 1, 1979, the requirement of a master's degree or the 30 semester hours of graduate study set forth hereinafter, the remaining semester hours in the professional study of education, under PREPARATION (2), and the college-supervised student-teaching experience or the year of appropriate and satisfactory experience which may be offered in lieu thereof.

Applicants in this examination under existing law will not acquire tenure until all the eligibility requirements have been completed within the time limits set. Upon failure of the applicant to complete these requirements within said periods, the license will terminate.

APPLICATION FEE:

The full eligibility requirements governing this examination are set forth on the attached pages designated (S.314b)(Alt.A), dated December, 1973. These pages also give the scope of the examination, the pass marks and weights, and the salary. Applicants are bound by all the regulations governing this examination. If the pages designated (S.314b)(Alt.A) and the sheets setting forth the GENERAL REGULATIONS are not hereto attached, persons interested in taking the examination should apply to the Board of Examiners for said pages and a copy of the General Regulations. Inquiries for additional information should be addressed to Mr. Albert Benjamin, Head of Unit 5, Board of Examiners.

DEFENDANT'S EXHIBIT D - EXAMINATION ANNOUNCEMENT

Note: Applicants who are eligible for more than one license (e.g., common branches and early childhood; English in junior high schools and English in day high schools) may file for only one examination if the written tests for both examinations are scheduled for the same day.

* SPECIAL NOTE

* The short-answer and/or essay-type questions in the written test

* other than the essays to be rated for written English and

* written Spanish will be available in English and in Spanish.

* Applicants at the time of filling will designate whether they wish

* to take the English or Spanish version. The language selected

* must be indicated on page 1 of this circular. Please be sure to

* fill in page 4 of this circular, detach it from the circular and

* staple it to page 3 of the application blank after you have

* completed the application.

THE BOARD OF EXAMINERS

DEFENDANT'S EXHIBITS BLAD (EXAM) (ANTHON LAW OUN SEMENT December, 1973

BOARD OF EDUCATION

BOARD OF EXAMINERS 65 Court Street Brooklyn, New York 11201 CITY OF MIN YOUR

ELIGIBILITY REQUIREMENTS FOR LICENSE AS FILINGUAL TEACHER OF EARLY CHILDHOOD CLASSES (SPANISH) IN DAY ELEMENTARY SCHOOLS (GRADES Pro-Kg-2)

Alternative A

PREPARATION: The completion of a five-year program of collegiate preparation at a regionally accredited higher institution or at a higher institution approved by the New York State Education Department, including or supplemented by

- A baccalaureate degree and either a master's degree in or related to the field of teaching service, or 30 semester hours of graduate study distributed among the liberal arts, the social and behavioral sciences, and professional study in education;
- (2) 24 semester hours in the professional study of education, including
 - (a) 6 semester hours in instructional methods and materials on the pre-kindergarten, kindergarten and primary level; and
 - (b) 6 semester hours of study in the methods and techniques of teaching reading skills.

If the course work offered under (2)(b) is on the pre-kindergarten, kindergarten and primary level, it may be offered in fulfillment of both (2)(a) and (2)(b).

(3) A college-supervised student-teaching experience.

SUBSTITUTION: In lieu of the requirements of a college-supervised student-teaching experience, the applicant may offer one year of appropriate and satisfactory teaching on the early childhood level (Pre-Kg-2).

TIME EXTENSION (1): Applicants will be permitted to complete at least 2 semester hours of study in the methods and techniques of teaching reading skills required under PREPARATION (2)(b) within one year from the date for meeting the minimum preparation requirements and the remainder of the 5 semester hours of study in the methods and techniques of teaching reading skills required under PREPARATION (2)(b) within two years of such date. Upon failure of an applicant to complete these requirements within such periods, his license will terminate. An applicant must, however, present 6 semester hours in the professional study of education, including 3 of the 6 semester hours required under PREPARATION (2)(a) by the date for meeting the minimum eligibility requirement.

TIME EXTENSION (2): Applicants will be permitted to complete within five years from the date for meeting minimum eligibility requirements, the requirement of a master's degree or the 30 semester hours of graduate study set forth above, the remaining semester hours in the professional study of education under PREPARATION (2) and the college-supervised student-teaching experience or the year of appropriate and satisfactory experience which may be offered in lieu thereof. Applicants in this examination under existing law will not acquire temure until all the eligibility requirements have been completed within the time limits set. Upon failure of an applicant to complete these requirements within such period, his license will terminate.

An applicant, therefore, by the minimum eligibility date must have completed the following:

- 1. The baccalaureate degree;
- 6 semester hours in the professional study of education, including at least 3 semester hours in instructional methods and materials on the pre-kindergarten, kindergarten and primary level.

When an examination has been officially announced, the date for meeting the minimum eligibility requirements and the dates for meeting the other eligibility requirements are set forth on the page headed EXAMINATION ANNOUNCEMENT.

(See other side)

INTERPRETIVE NOTES

- (1) : baccalaureate degree is a degree awarded upon the satisfactory completion of an approved and appropriate four-year curriculum. In general, an accredited B.L. or B.S. degree is implied. Unconditional matriculation at a recognized college or university for a master's degree or higher degree implies that the requirement of a baccalaureate degree has been satisfied.
- (2) The master's degree must be in or related to the field of teaching service.
- (3) The 30 semester hours of approved graduate study beyond the baccalaureate degree must be distributed among the liberal arts, the social and behavioral sciences, and professional study in education. There must be at least one course in each of these three areas. Courses leading to an LL.B. or any other baccalaureate degree are not acceptable as graduate courses. In-service courses are not accepted as graduate courses. A graduate course is a course creditable, but not necessarily actually credited, toward a master's degree or other higher degree.
- (4) The following are illustrative of the courses acceptable toward meeting the requirements of 24 semester hours in the professional study of education; history of education, principles of education, philosophy of education, problems of education, educational sociology, educational psychology, psychology of learning, child psychology, adolescent psychology, methods and materials (general or in a particular subject) on any school level except college level, methods and techniques of teaching reading skills. Courses in general psychology or in adult behavior are not acceptable. Courses other than educational psychology, or adolescent psychology taken in the psychology department of a college are generally not acceptable. Six semester hours in instructional methods and materials on the pre-kindergarten, kindergarten and primary level must be included in the 24 semester hours. The 24 semester hours in the professional study of education must include or be supplemented by 6 semester hours in the methods and techniques of teaching reading skills.
- (5) The college-supervised student-teaching experience may be on any school level except college level and need not be in the subject of the license applied for.
- (6) One year of teaching is defined as not less than 160 days or 800 hours of compensated teaching distributed over a period of not less than approximately one school year or two school terms. If a year of teaching is offered in lieu of the requirement of college-supervised student-teaching experience, this year of teaching must have been on the early childhood level (Pre-Kg-2).

SCOPE OF THE EXAMINATION

The scope of the examination is as follows:

- 1. A written test consisting of
 - a. Short-answer and/or essay type questions covering any or all of the following: basic principles, practices, curriculum, materials and methods in early childhood education, including pre-kindergarten classes, kindergarten classes and grades one and two, with emphasis on bilingual early childhood education; history and culture of Puerto Rico; Hispanic culture; and cultural, social, and educational aspects of life in New York City of importance to the Hispanic-American community.

 See SPECIAL NOTE on EXAMINATION ANNOUNCEMENT page.
 - b. An essay question in English which will be rated for written English only.
 A rating of "satisfactory" in written English will be required.
 - c. An essay question in Spanish which will be rated only for correctness and facility in the use of the language.
 - A rating of "satisfactory" in written Spanish will be required.
- 2. An interview test: The interview test will be conducted in two parts, one in Spanish and the other in English. The applicant will be required to demonstrate oral competence in both languages. He will be expected to make himself understood in English by persons who have no familiarity with Spanish. His use of Spanish must be natural and fluent.

For other elements of the interview test see General Regulations.

- 3. A physical and medical test (See General Regulations.)
 - Applicants with physical handicaps may be licensed provided they demonstrate their "ability to perform teaching duties" (Chapter 192, Laws of 1971). Such applicants are urged to contact the head of the appropriate examining unit for further information.
- 4. An appraisal of record (See General Regulations.)

In the interest of expedition, any part of an examination may be conducted before the rating of a previous part of the examination has been completed or acted upon.

DEFENDANT'S EXHIBIT D - EXAMINATION ANNOUNCEMENT

Page 3 (S.314b)(Alt.A) (Bilingual E.C.C.)(Spanish)Oecember, 1973

PASS MARKS AND SCHEDULE OF WEIGHTS

The pass marks and schedule of weighte in the various parts of the examination are as follows:

Part of Examination	Weight	Pass Mark
Written test (short-answer and/or essay type questions)	60	60% on the weighted average of the written and interview tests as weighted
Interview test a. Sub-test in English b. Sub-test in Spanish	•	in column 2, with a minimum of 50% on each of these tests, and with a minimum of 50% on each of the sub-tests in the interview test
Written Spanish Written English Appresisal of record Physical and medical test		Satisfactory Satisfactory Satisfactory Satisfactory

SALARY

\$9,600 to \$15,750 in sixteen salary steps. A first salary differential 600 above the base salary at each step of the schedule will be payable to a teacher who is entitled to receive it on the basis of a certain number of approved courses taken pursuant to the pertinent provisions of the Ty-laws of the Board of Education. A second salary differential of \$1,750 at each step of the schedule will be payable to a teacher who is entitled to receive it on the basis of additional approved preparation pursuant to the provisions of the By-laws of the Board of Education.

PROMOTIONAL DIFFERENTIAL

A promotional differential of \$1,250 will be payable to a teacher who is entitled to receive it under the By-laws of the Board of Education.

The Board of Education provides Social Security coverage, in addition to a pension, for its regular teachers. Prospective applicants may apply to the Salary Unit, 65 Court Street, Brooklyn, New York 11201, in writing for information concerning the regulations governing salary credit for prior experience and the salary differentials.

NEW YORK STATE COLLEGE PROFICIENCY EXAMINATION PROGRAM, STATE EDUCATION DEPARTMENT

The New York State Education Department conducts periodic examinations in some areas in education, such as educational psychology and tests and measurements, and in collage content courses, such as American literature, biology, and certain modern foreign languages. The State Education Department credits the passing of such an examination toward meeting its relevant specific course requirements for a State teaching certificate. It does not credit the passing of such examination toward meeting its requirement of a baccalaureate degree or of a given number of semester hours of graduate courses, unless an approved college or university actually gives course credit for the passing of the examination.

The Board of Examiners accepts the passing of such examination to the same extent as the State Education Department and credits it as of the date of the taking of the examination. Verification of the passing of such examination must be sent to the Board of Examiners by the State Education Department at the request of the applicant.

Further information concerning available examinations and the dates of their administration may be obtained from the College Proficiency Examination Program, State Education Department, Albany, New York 12210.

THE BOARD OF EXAMINERS

DEFENDANT'S EXHIBIT D - EXAMINATION ANNOUNCEMENT

Page 4 (S.314b) (Alt.A) (Bilingual E.C.C.)(Spanish) December, 1973

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NOTE: THIS FORM MUST BE COMPLETED AND ATTACHED TO YOUR APPLICATION AT THE TIME OF FILING.

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III. EXPERIENCE

NOTE: Leave no gaps in your employment record. List your experience in chronological order, ending with your current position.

A. EXPERIENCE IN SCHOOLS

Name or number and address of School	From	То	Kind	Position Held (Subject if any)	Hrs. per Day		Name, address and position of supervisor
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S . —substitute	ADM—administrative work
R -regular	SUP —supervisory work

E8 —evening school V —voluntary unpaid service
SS —summer school service

NOTE: For all other kinds of experience write in the nature or type.

From	То	From	То
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C. EXPERIENCE OTHER THAN IN SCHOOLS (Include all employment whatever its nature)

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DEFENDANT'S EXHIBIT E - APPLICATION FOR LICENSE

Answer questions 1 - 5 "Yes" or "No." If answer is "Yes," explain below.

1.	Have you ever been a defendant in any court action? All court actions, no matter what the outcome, and traffic violations, must be included.	í es	□ No
2	Have you ever been discharged or required*to resign from any position?		□ No
3.	Have charges ever been preferred against you by an employer?		□ No
4.	Have you ever resigned as an alti g charges or dismissal?	Yes .	Q No
5	Have you ever been refused a license by the Br of Examiners because of unsatisfactory record or unsatisfactory medical examination?	Yes	Q No
	I have all the Will assume of the assumention for which I am fling this application. To the best of my knowledge	doe a	nd helief

I have read the official announcement of the examination for which I am filing this application. To the best of my knowledge and belief I now meet, or shall meet, the eligibility requirements by the date(s) stated in the examination announcement.

I hereby certify that, to the best of my knowledge and belief, the statements in the foregoing application are true, complete and accurate I understand that any misrepresentation of material facts in this application, through misstatement or omission, may cause denial of the license or invalidation thereof and may be incorporated in my record in connection with future application for any license.

Signature of applicant (Sign name in full) (Dete)

The City School District of New York

This is to Certify that

SOC. SEC. NO. 065-36-7131

MISS CARPEN J INIZARRY 8C1 EZ ST 1/22/15

FILE NO. 469113

8C1 12 11 N ELKGEN NJ C7047

having passed the required tests of character, scholarship, and general fitness, is hereby Licensed to serve as

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Date

Schools

of The City of New York, subject to the By-Laws of the Board of Education and subject to the conditions, if any, under which the issuance of this license was recommended and authorized. This license may be used for service as a substitute until such time as teacher receives a regular appointment or the eligible list under which this license is issued expires.

Chancellor

THE FILE NUMBER LISTED ABOVE, IS YOUR PERMANENT NUMBER FOR PAYROLL PURPOSES UNDER ALL ASSIGNMENTS AND APPOINTMENTS, IT IS TO BE GIVEN TO THE SCHOOL SECRETARY TO WHICH YOU HAVE BEEN ASSIGNED.

(REGULATIONS ON REVERSE SIDE)

FORM OF 110-10M-12/74

COPY FOR BUREAU OF TEACHER STATUS AND RECORDS

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OSPENDANTS' EXEIBIT 3 - - EBERAL REGULATIONS
GOVERNING EXAMS

BOARD OF EDUCATION
THE CITY OF NEW YORK
OFFICE OF THE BOARD OF EXAMINERS
BE COURT STREET, BROOKLYN, N. M. MILLOI

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DEFENDANTS' EXHIBIT G - GENERAL REGULATIONS GOVERNING EXAMS

FINGERPRINTING

10. The By-laws of the Board of Education require that all applicants be fingerprinted.

MILITARY LEAVE REGULATIONS

11. Persons prevented from taking or completing examinations or from meeting eligibility requirements by service in the armed forces, by service in the United States Merchant Marine, by service overseas with the American Red Cross in connection with the armed forces, or who are on "extended military leave" (released from military duty to engage in essential war work), or who have been honorably discharged, are advised to write (enclosing a large, self-addressed, stamped envelope bearing eight cents in stamps) to the Board of Examiners for a circular setting forth the regulations governing persons on military leave.

MEETING ELIGIBILITY REQUIREMENTS

- 12. Eligibility is not customarily checked in advance of an examination. However, applicants and prospective applicants may address to the Head of the appropriate Examining Unit inquiries with respect to the acceptability of courses and of experience toward meeting eligibility requirements. (See General Regulations 45 and 46.)
- 13. Applicants will be required to establish their eligibility in all particulars, including date of birth, by appropriate documentary evidence. Such evidence should be made available to the Board of Examiners when requested.
- 14. Applicants who do not meet eligibility requirements by the date(s) fixed in the examination announcement circular in accordance with the By-laws or resolutions of the Board of Education and who nevertheless take an examination will be refused license and will not be credited with any ratings obtained. If a license is granted subject to the licensee's meeting eligibility requirements as of a later date specified in a By-law or a resolution of the Board of Education and the licensee fails by such date to meet the requirements, his license will lapse.
- 15. The number of semester hours accepted by the Board of Examiners for a given course is the same as the number of college credits recorded for this course on the official transcript. However, in the case of a course in observation and practice teaching, in examinations announced on or after September 1, 1966, the number of semester hours is computed by the Board of Examiners on the basis of one semester hour for each 30 clock hours. Any excess of semester hours over the number of credits allotted by the college in observation and practice teaching may be applied where appropriate and within the limits set by the requirements for the particular license toward meeting the education course requirements. This excess may not be applied toward meeting the requirement of a baccalaureate degree or of graduate study or post-college study.
- 16. A course for which only attendance credit or residence credit is given is not acceptable unless validated by the college on or before the eligibility date by the conferring of the degree, or the passing of a comprehensive examination required for the degree, or the passing of an individual examination in the course, or the certification by the college that it considered the course as completed and as credited toward a degree.
- 17. A course given by the applicant which would be creditable toward meeting the eligibility requirements will be accepted in neu of a course taken.

APPLICANTS NOT RESIDING IN NEW YORK CITY

18. Residence or previous service in New York City or New York State is not required. Applicants residing at a distance of more than one hundred miles from New York City may request in advance by correspondence to have their personal tests completed on or near the date of their written tests. If feasible, arrangements for such tests will be made by the Board of Examiners. Such requests should be made at the earliest possible time and should be addressed to the appropriate Examining Unit.

SCOPE OF EXAMINATION

NOTE: The tests constituting the examination for a particular license and the pass marks in these tests are specified in the circular announcing the examination.

Examinations may include one or more of the following:

- 19. A WRITTEN TEST, including short-answer or essay questions or both, to evaluate the applicant's knowledge of relevant subject matter and educational principles, problems, and practices related to the duties of the position sought. In addition, the written test will evaluate the applicant's ability to communicate his thoughts in satisfactory written English. In addition, in bilingual examinations, the written test will evaluate the applicant's ability to communicate his thoughts in the designated second language.
- 20. AN INTERVIEW TEST to evaluate any or all of the following: the applicant's ability to discuss problems relating to his subject or to the teaching of his subject or to the position sought; those aspects of personality as to which an interview affords a basis for judgment; the applicant's oral reading ability; and his ability to communicate in discussion. Other aspects of the applicant's fitness may also be evaluated, such as his command of a foreign language (in the case of foreign language and bilingual licenses), etc.
- 21. A GROUP INTERVIEW TEST to appraise the applicant's leadership, tact, ability to communicate, ability to present issues, ability to meet challenges, and such other qualities as are manifested in the course of group discussion. In the group interview test, a number of applicants are brought together to discuss one or more assigned problems or topics.

DEFENDANTS' EXHIBIT G - GENERAL REGULATIONS GOVERNING EXAMS

- 22. AN EXPERIENCE-INTERVIEW TEST to evaluate any or all of the following: the specific nature of the applicant's experience, the extent to which, because of its relevance or the responsibilities it entailed, it is likely to have enhanced the applicant's fitness for the license he seeks, the discernment shown by the applicant in his own evaluation of his experience, and such other aspects of the applicant's experience as are related to the license sought.
- 23. A TEACHING TEST to evaluate the applicant's skill in teaching, his knowledge of instructional material, his manner toward pupils, and his ability to communicate in the classroom setting.
- 24. A PERFORMANCE TEST to evaluate the applicant's practical skill in those subjects which require such skill.
- 25. A SUPERVISION TEST to evaluate the applicant's ability to appraise observed teaching or other professional performance and to recommend appropriate measures for improvement.
- 26. AN APPRAISAL OF OBSERVED TEACHING to evaluate the applicant's ability to appraise and to discuss orally observed teaching and other aspects of the supervisor's leadership role in improving the teaching-learning situation.
- 27. A CONFERENCE TEST to evaluate the applicant's ability to conduct a conference.
- 28. AN INSPECTION TEST to evaluate the applicant's recent experience.
- 29. A FIELD TEST. As part of this test, the applicant may be required to give evidence of the value of his recent educational service, to demonstrate his ability to address an audience, to evaluate observed instruction, to discuss problems related to practices observed or to the position sought, to conduct a conference, etc.
- 30. AN APPRAISAL OF RECORD. Consideration is given to evidence of such elements of fitness as: good citizenship; traits of character and personality, such as integrity, conscientiousness in the performance of duty, capacity for winning and holding the respect and cooperation of fellow-workers and of the community, sympathetic understanding of and interest in children, and capacity for developing the character and securing the respect and cooperation of pupils; and, in the case of applicants who have rendered service relevant to the license or position sought, competence in the performance of such service. The record of an applicant up to the time of final action on his application is subject to appraisal. This part of the examination is non-competitive.
- 31. A RATING OF TRAINING AND EXPERIENCE as of the date for meeting the minimum eligibility requirements.
- 32. A PHYSICAL AND MEDICAL EXAMINATION conduct d by the medical staif of the City Board of Education. Applicants must establish to the satisfaction of the New York City Department of Health their freedom from infectious tuberculosis. This part of the examination is non-competitive.
 - Applicants with physical handicaps may be licensed provided they demonstrate their "ability to perform teaching duties" (Chapter 192, Laws of 1971). Such applicants are urged to contact the head of the appropriate examining unit for further information.
- 33. The above-mentioned tests may be supplemented by such other tests as the Board of Examiners may deem necessary to determine the merit and fitness of an applicant.
- NOTE: An applicant who does not take the written test or the supervision test or the group interview test when called will be refused license. In regard to each of the other tests described above, an applicant may be officially excused from taking the tests when originally called upon submission of appropriate evidence satisfactory to the Board of Examiners, unless otherwise stated in the notice for the test.

STANDARDS

- 34. A minimum grade may be required in each test and in each major part of such test. Applicants who fail to reach this minimum in earlier parts of the examination may be denied license and barred from later parts. However, the Board of Examiners may conduct later parts of an examination before earlier parts have been completed or acted upon by the Board. The Board of Examiners, moreover, may fix a pass mark for the examination as a whole. Applicants may be denied license if they fail to achieve this final pass mark even if they have met the minimum requirements in each of the tests.
- 35. Persons who are in doubt about their ability to meet the physical and medical standards of the Board of Examiners are advised to send for a special circular entitled "Physical and Medical Standards for Applicants for License."

ELIGIBLE LISTS

- 36. Examinations for all supervisory service positions are open-qualifying and result in alphabetic order eligible lists. Examinations for all other regular licenses are open-competitive, and result in ranked order eligible lists.
- 37. Only one eligible list will be promulgated as the result of one examination.
- 38. Ranked eligible lists and qualifying eligible lists are normally valid for four years from the dates promulgated.
- 39. To a person granted a regular license as teacher the Chancellor will issue, on request, a corresponding per diem teacher certificate.

DEFENDANTS' EXHIBIT G - GENERAL REGULATIONS GOVERNING EXAMS

40. The Board of Examiners will make every effort to promulgate the eligible list resulting from an examination within one year of the date of the first test in the examination, usually the written test. The applicant may be required to complete the tests comprising his examination within ten months of the first test. If action on an applicant's case is held up by difficulty or delay in establishing eligibility or satisfactoriness of record, by appeals requiring consideration, by requests for postponement of personal tests that may be deferred, by failure of the applicant to pass the physical and medical examination in the first instance, or by similar delaying cause, such an applicant's name, if he is finally successful in passing the examination, may not appear on the eligible list as originally promulgated, but will be included in a supplementary certification and interpolated in its proper order on the eligible list as it stands at the time when the supplementary certification is made.

APPOINTMENTS

- 41. Appointments are made from a ranked eligible list on which the names of successful applicants are arranged in the order of their final rating in the examination, except that under Article V. Section 6 of the Constitution of the State of New York, disabled and non-disabled veterans successful in passing an examination for a regular license may claim additional credits. (See General Regulation 47.)
- 42. Appointments are made from a qualifying eligible list from among any of the applicants on the list.
- 43. Appointments are made for a probationary period at the end of which period the appointee, if his services are satisfactory, is accorded permanent appointment, carrying with it tenure of position when full eligibility requirements have been completed within the time specified.

INFORMATION SERVICES

- 44. Applicants are advised not to solicit applications or information concerning eligiblity over the telephone. Such inquiries should be made in person or in writing. (See General Regulations 45 and 46.)
- 45. Persons who wish to make inquiry or to seek advice concerning eligibility or any other matter related to announced or prospective examinations will find guidance service available to them during business hours in the office of the appropriate Examining Unit. It is desirable to make appointments in advance by mail or telephone with one of the assistants assigned to this service in the appropriate Examining Unit.
- 47. Disabled and non-disabled veterans who pass an open-competitive examination for regular license, under conditions prescribed by law and by the regulations of the Board of Education, may be entitled to an increase in their total examination rating of ten percent and five percent, respectively. For further information on this subject, veterans should apply to the Investigation Division of the Board of Examiners for a special circular entitled "Veterans' Rights in Open-Competitive Examinations Conducted by the Board of Examiners."

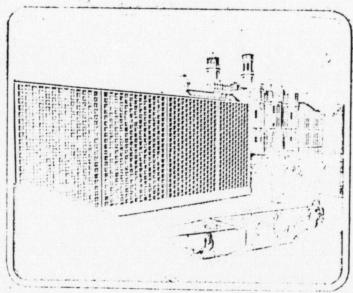
THE BOARD OF EXAMINERS

DEFENDANTS' EXHIBIT H - PORTIONS OF HERBERT H. LEHMAN COLLEGE 1972-73 UNDERGRADUATE BULLETIN

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College of Arts & Sciences School of General Studies



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LDU 211: Froblems and Issues in the Teaching Profession. 3 hrs;

Analysis of the recurrent problems in the profession of teaching, drawing upon the sociology, philosophy, anthropology, and history of education.

EDU 212: The Afro-American in the Urban School Setting. 3 hrs; 3 crs.

Study of the contemporary Afro-American in the urban setting. Special emphasis on opportunities to investigate the educational and environmental influences on the Afro-American.

EDU 213: The Spanish-Speaking American in the Urban School Setting.

Study of the contemporary Spanish-speaking American In the urban setting. Special emphasis on opportunities to investigate the education of and environmental influences on the Puerto Rican.

EARLY CHILDHOOD AND ELEMENTARY EDUCATION SEQUENCE (N-VI)

The foundation courses numbered EDU 207 and 208 are prerequisite to all the courses in the Early Childhood and Elementary Education sequences. It is recommended that the foundation courses EDU 212 and 213 be taken prior to or simultaneously with these. However, these two courses (EDU 212 and 213) may be taken at any time during the education sequence.

EARLY CHILDHOOD LEVEL

The courses numbered EDU 315 through 319 are designed for students preparing to teach at the Early Childhood level (N-VI). This program emphasizes student and faculty involvement in schools and communities of the inner city, the use of professional and com-munity resource persons, team teaching, and the use of educa-tional materials. The program reflects the strong belief that Early Childhood Education plays an important part in the attempt to solve social problems

However, the program is at present inactive because New York State does not offer a license in Early Childhood Education. To meet State certification requirements, students interested in Early Childhood Education must take the elementary-level sequence.

ELEMENARY LEVEL

The courses numbered EDU 321 through 329 are designed for students preparing to teach at the Elementary level (N-VI). According to plan, Student Teaching should be taken in the Senior year. Any changes in sequence require the permission of the Department.

DESCRIPTION OF EARLY CHILDHOOD EDUCATION COURSES (N-VI)

EDU 315: Music for Early Chiltihood. 3 hrs; 2 crs.

Organizing musical experiences from N-II. Singing, playing, moving, listening, and creative activities. The role of music in the classroom and in our culture. Includes a one-hour laboratory for music fundamentals and improvisation at the plane.

EDU 316: Art for Early Childhood. 3 hrs; 2 crs.

A course designed (1) to provide experience with a variety of simple art materials such as paint, clay, and wood as well as found materials suitable for collage; (2) to foster the student's awareness of the significance a creative experience has for the individual; and (3) development of an understanding of children's art. Also, instruction in the care of materials and the techniques that are suitable for different age levels.

EDU 317: Methods and Materials in Early Childhood-I. (Two semes) ter course.) 3 hrs; 3 crs.

Study of the mental, social, emotional and cognitive needs, interests, and experiences of children (3 through 5 years of age) as the basis for developing suitable programs and for formulation of criteria for the developing suitable programs and for formulation of criteria for the selection and evaluation of materials as well as for the creation of an appropriate environment. The course will develop specific methods and content in the teaching of social studies, science, arithmetic, and language arts. Health, nutrition sexuality, and safety in the Early Childhood levels will be included. Students will spend time in laboratory, directed observation, or other supervised field experiences.

EDU 318: Methods and Materials In Early Childhood-II. 3 hrs; 3 crs.

Continuation of EDU 317. Emphasis will be on primary grades.

EDU 319: The Teaching of Reading (N-III). ** 2 hrs; 2 crs.

Reading readiness, enlargement of meaning and sight vocabularies, word perception, structural and phonetic analysis techniques, methods of grouping, and individualization. Appraisal of various teaching methods and materials in the teaching of reading. Opportunity for the student to tutor in public schools.

DESCRIPTION OF COURSES IN ELEMENTARY EDUCATION (N-VI)

EDU 321: Teaching Reading and Other Related Language Arts in the Elementary School (N-VI). 4 hrs; 3 crs.

The selection guidance, and evaluation of learning experiences in rela-tion to the objectives of the program in Nursery School through Grade VI, with specific emphasis on methods and materials in the areas of reading and the language arts: classroom organization, planning, and evaluation; guided observation. Opportunity for the student to tutor in public schools.

Prereg: EDU 208. Coreg: EDU 321.

*It is recommended that students in the Early Childhood curriculum take also the piano course offered by the Muric Department. MSP 247.

** Taken concurrently with Methods and Materials, either Part (EDU 317) or Part II (EDU 318).

PSYCHOLOGY

FSY 200: Statistical 1 othods in Psychology, 3 hrs. 3 crs.

Descriptive and inferential statistics and their applications to the analysis and interpretation of psychological data. Among the topics discussed are measures of variability and central tendency, correlations, normal and tidistributions, chi square, and simple analysis of variance.

Prereg: PSY 100.

Note: Students concentrating in psychology should have completed PSY 200 by the end of the Sophomore year.

PSY 210: Child Psychology. 3 hrs; 3 crs.

Consideration of theories, research findings, and methodology with respect to physical growth and sensorimotor, emotional, cognitive, perceptual-conceptual, language, and intellectual development of the individual prior to adolescence.

Prereg: PSY 100.

PSY 215: Developmental Psychology. 3 hrs; 3 crs.

Study of the development of human behavior during childhond, adolescence, maturity, and senescence. Emphasis upon anatomic and functional interrelationships and their significance for psychosocial development throughout the life span.

Prereg. PSY 100.

PSY 218: Psychology of Exceptional Children. 3 hrs; 3 crs.

Special problems in training and adjustment of children who differ markedly from the normal: meshally retarded, neurologically impaired, emotionally disturbed, physically handicapped, socially and culturally deprived, and gifted children.

Prereq: PSY 100.

PSY 220: Abnormal Psychology. 3 hrs: 3 crs.

Examination of the concept of abnormality and of the major categories of psychopathology, including the neuroses and psychoses Consideration of etiology, symptoms, diagnosis, and treatment of psychological abnormalities.

Prereg: PSY 100.

PSY 240: Industrial Psychology. 3 hrs: 3 crs.

Survey of current research, problems, and practices in personnel section and training; management emscayee relations; consumer psychology; marketing; and advertising.

Prereq: PSY 100.

PSY 250: Tests and Measurements-1. 3 hrs; 3 crs.

Introduction to the theory and problems of psychological assessment. Survey of the major methods and their application in the measurement of general ability, aptitude, achievement, interest, and personality. Appraisal of the contribution of psychological tests to some areas of applied psychology.

Prereq: PSY 100.

PSY 300: Advanced Statistical Methods in Psychology, 3 hrs; 3 crs. Comprehensive treatment of selected topics, including experimental design and nonparametric and multivariate techniques.

PSY 305: Experimental Psychology-1. 6 hrs (2, lect; 4, lab); 4 crs.

These and method of psychological experimentation and measurement as applied to the study of behavioral phenomena. Design and execution of selected experiments in such areas as learning, thinking, motivation, personality, and social behavior.

Prereg: PSY 200.

Prerea: PSY 200

PSY 306: Experimental Psychology-II. 6 hrs (2, lect; 4, lab); 4 crs.

Continuation of PSY 305, including such areas as sensation and perception, with emphasis on independent research on selected topics.

*Prereg: PSY 305.

PSY 320: Theories of Personality. 3 hrs; 3 crs.

Review of the major theories of personality development including the psychoanalytic, constitutional, behavioral, and biosocial.

Prereg: PSY 100.

PSY 330: Social Psychology, 3 hrs; 3 crs.

Consideration of theoretical approaches, research methodology, and findings pertinent to the study of the individual in his social context. Emphasis is given to attitude formation and change, interpersonal perception, group structure and processes, leadership, conformity, and communication.

Prereg: PSY 100.

PSY 335: Methods in Social Psychology. 6 hrs (2, lect; 4, lab); 4 crs.

Consideration of observational methods, interviewing, questionnaires, scaling, and experimental methods in social-psychological research. Design and execution of studies in selected topics.

Preregs: PSY 200 and 330.

PSY 338: Community Psychology. 3 hrs; 3 crs.

Consideration of the contributions of psychology to problems of social intervention in community mental health centers, schools, and the like. Review of various social intervention projects in order to study present and possible future contributions of psychology. Attention will be given to ethical problems and interdisciplinary relationships.

Prereg: PSY 100.

PSY 350: Tests and Measurements-II. 3 hrs; 3 crs.

Theory of test construction as well as supervised practice in the administration, scoring, and interpretation of selected psychological tests.

Prereg: PSY 250.

ALFIDAVIT OF SERVICE ON ATTORNEY OF PRINTED PAPERS

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City, County and State of New York, ss.:	JAMES - BURRS -
being duly sworn, says, that on the 21	day of MAR 1 1977
at No. 275 MADISON ANE the Boron	ugh of MNH, in The City of New York, he served three copies
of the annexed AFFENDIX	upon JOPN GOLDBERG Esq.
the attorney for the SLTEF - KE	in the within entitled action by delivering
three copies of the same to a person in charge of sai	d attorney's office during the absence of said attorney therefrom, and
leaving the same with him.	
Sworn to before me, this.) and Duris
BRUCE S. GARNER	
City of New York - No. 4-1786 Commission Expired May 1, 1978	
Emile Haron	